

THE LAW OFFICES OF WILLIAM W. PALMER
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Attorney for Plaintiffs Chris Lusby Taylor,
Nancy A. Pepple-Gonsalves, Gary Kesselman,
Susan Swinton, Dawn E. Struck, and William J.
Palmer

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

CHRIS LUSBY TAYLOR, NANCY A.
PEPPEL-GONSALVES, GARY
KESSELMAN, SUSAN SWINTON, DAWN E.
STRUCK, and WILLIAM J. PALMER

As Taxpayers, and on behalf of themselves and other persons similarly situated,

Plaintiff,

VS.

JOHN CHIANG, individually and in his capacity as STATE CONTROLLER OF THE STATE OF CALIFORNIA; STEVE WESTLY, individually

Defendants.

Case No.: CIV. -S-01-2407 WBS

DECLARATION OF WILLIAM W.
PALMER IN SUPPORT OF PLAINTIFFS'
MOTION FOR INTERIM FEE AWARD

Hearing:

Date: October 29, 2007

Time: 2:00 p.m.

Courtroom: 5

(The Hon. Judge William B. Shubb)

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DECLARATION OF WILLIAM W. PALMER

I, William W. Palmer, Esq., declare as follows:

1. I am an attorney at law licensed to practice law before all courts of the State of California, including the United States Supreme Court and the U.S. District Federal Court for the Eastern District of California. I am attorney of record for Plaintiffs herein. I have personal knowledge of the facts contained herein and if called as a witness I could and would testify to them.

2. Simultaneously with this Declaration, I caused to be filed Plaintiffs' Motion for Interim Fee Award (the "Motion") made on behalf of my clients in this case.

3. I filed the original Complaint in this case on December 31, 2001. I have invested significant time and effort litigating this case on behalf of my clients and the putative Class Members. A true and correct breakdown of the hours, including the date, the time expended by my firm, and the tasks performed, is attached hereto as **Exhibit A**. This time report (**Exhibit A**) also details the expenses my firm has incurred in prosecuting this case.

4. I began this case as a solo practitioner. As reflected in the time report (**Exhibit A**), I undertook all of the research and investigation to understand the nature and magnitude of the Controller’s wrongdoing. This work included many hours in public libraries and archives researching the actual steps the Controller took in his administration of California’s Unclaimed Property Law (“UPL”), such as the notices (or lack thereof) published in newspapers in California, and compared those steps to the requirements of the UPL as it existed from time to time. What I learned was startling: the Controller systematically abused the UPL in an effort to maximize the “revenues” available to the State by refusing to provide proper Notice and by systematically seizing more and more private

1 property, without regard for whether it was actually “unclaimed” (*i.e.*, within the scope of
2 the UPL) or not. As a result of this research, I recognized that this case extended far beyond
3 the injury inflicted on my two initial clients in this case, Chris Lusby Taylor and Nancy A.
4 Pepple-Gonsalves. Accordingly, I prepared this case as a class action.
5

6 5. As reflected in this Court’s docket, this case was dismissed on the grounds
7 that the Eleventh Amendment precluded this case. Thereafter, Daniel J. Culhane, an attorney
8 based in Denver, Colorado, who has experience in federal and state appellate litigation,
9 agreed, and joined my firm and began working on the case. (**Exhibit A**).
10

11 6. From time to time as the need arose during the course of this litigation my
12 firm collaborated with another attorney, Brian Boydston, who is based in Los Angeles with
13 his law firm. Mr. Boydston’s contributions are likewise contained in the time report attached
14 to his declaration.
15

16 7. My fee agreement with my initial clients (and with the additional Plaintiffs
17 who entered the case in 2005) is a contingency fee agreement. Under each of the fee
18 agreements, my firm is obligated to bear all of the risk that the case might not succeed, as
19 well as to advance all of the costs and expenses incurred in litigating the case. I have never
20 received any payment of any legal fees from any client (or anyone else) in connection with
21 this case. Indeed, despite the fact that the Ninth Circuit Court of Appeals twice ordered the
22 Controller to pay my costs in connection with the successful appeals, the Controller has
23 never paid those costs. My colleagues Mr. Culhane and Mr. Boydston have also never
24 received any remuneration of any kind for their contributions to this case, although both
25 attorneys have incurred costs in connection with the case.
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1 This case has proven to be difficult, complex, and enormously time- and resource-
2 consuming. In total, the attorneys in this case have invested 6660.08 hours, valued at
3 \$400.00 per hour, for a total time-value of \$ 2,700,348.70 in this case from inception
4 through September 15, 2007, which represents the period for which the Plaintiffs seek an
5 interim award of fees. The attorneys' \$400.00 rate is commensurate with their credentials
6 and experience, and is reasonable based on not only the attorneys' capabilities, but also in
7 the marketplace for complex, sophisticated litigation. A copy of my executive summary is
8 attached hereto as **Exhibit G**. I regularly communicate with attorneys from larger firms who
9 have similar experience and credentials to me, Mr. Culhane, and Mr. Boydston, and those
10 attorneys typically charge higher (and sometimes significantly higher) hourly rates than
11 \$400.00. Accordingly, \$400.00 per hour is reasonable based on the experience, credentials
12 and capabilities of my firm, as well as based on market rates for similar work.

15 8. On behalf of my clients, I have used my best efforts to move this case
16 forward expeditiously. However, my efforts have been frustrated by Defendants' litigation
17 practices, which appear designed to use every possible means to delay the proceedings.
18 While I respect my opposing counsel's efforts, which were initially successful, to defend the
19 Controller's practices and to argue for immunity under the Eleventh Amendment, the Ninth
20 Circuit rejected their arguments in its March, 2005, unanimous published opinion. *Taylor v.*
21 *Westly*, 402 F.3d 924 (9th Cir. 2005) ("*Taylor I*"). In addition, the Ninth Circuit clearly held
22 that the Controller's practices (as alleged in the Complaint, and as subsequently admitted in
23 the Declaration of Robert Huarte dated June 26, 2006 (attached hereto as **Exhibit B**)
24 ("Huarte Decl.")) violate the Due Process Clause of the United States Constitution. At that
25 point, I expected the Controller to significantly reform his practices and to seek a way to end
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28 point, I expected the Controller to significantly reform his practices and to seek a way to end

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1 this litigation through a mutually-agreeable settlement. Instead, amazingly, following the
 2 *Taylor I* opinion, Controller Steve Westly actually *increased* the seizure of private property,
 3 and took increasingly aggressive and unsupported positions in this litigation, and my
 4 colleagues who represent the Defendants announce that the unanimous, published decision
 5 was “merely jurisdictional.”

6
 7 9. Plaintiffs immediately sought to enjoin further violations of the United States
 8 Constitution at the Ninth Circuit Appellant level by moving for a Temporary Restraining
 9 Order (“TRO”) and a preliminary injunction, and then again at the District Court level.
 10 When this was denied, Plaintiffs again appealed to the Ninth Circuit. While that appeal was
 11 pending, we presented the Plaintiffs in a separate case pending in the Northern District
 12 captioned *Suever v. Westly*, No. C-01-00156 RS (E.D. Cal.) where we obtained another
 13 favorable ruling from the Ninth Circuit echoing the holding in *Taylor I*. *See Suever v.*
 14 *Westly*, 439 F.3d 1142 (9th Cir. 2006). In 2007, the Ninth Circuit issued another unanimous,
 15 published decision directing this Court to enter a preliminary injunction prohibiting further
 16 violations of the Due Process Clause. *Taylor v. Westly*, 488 F.3d 1197 (9th Cir. 2007)
 17 (“*Taylor II*”). The *Taylor II* opinion explicitly relied on *Jones v. Flowers*, 126 S.Ct. 1726
 18 (2006) and *Mullane v. Central Hanover Bank & Tr. Co.*, 339 U.S. 306 (1950). In addition,
 19 the *Taylor II* opinion recommended that this Court consider federal oversight of the
 20 Controller in recognition of the reality that the Controller has taken no action whatsoever to
 21 correct his Unconstitutional practices despite the explicit rulings of *Taylor I*, *Suever* and the
 22 United States Supreme Court’s opinion in *Jones v. Flowers*. *Taylor II* at 1202. This Court
 23 entered a Preliminary Injunction Order on June 1, 2007, which remains in effect.
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1 10. After this Court enjoined the Controller from taking possession, custody or
2 title to property under color of the UPL the Controller took the public position that he
3 “agrees” with the Federal Courts that the Unclaimed Property Law is broken and must be
4 fixed, and even went so far as to assert that he is “outraged” by the UPL: “No, Sen.
5 McClintock, I wasn't “shocked” when I took office six months ago. I was outraged –
6 outraged that a program that I believe should be safeguarding lost property had been
7 perverted by 20 years of shortsighted lawmaking into becoming the very thing it was
8 designed to protect against.” J. Chiang, “State Controller on Asset Seizures,” Orange County
9 Register (July 29, 2007), a true and correct copy of which is attached hereto as **Exhibit C**.
10
11 *See also* M. Lifsher, “Lost track of those old assets? The state may have seized them,” Los
12 Angeles Times, July 9, 2007, p. A-1, a true and correct copy of which is attached hereto as
13 **Exhibit D**.
14

15 11. Unfortunately, the Controller does not appear to have informed his litigation
16 team of his “outrage” with the “perverted” Unclaimed Property Law—a characterization that
17 closely mirrors Plaintiffs' own allegations, albeit in more colorful terms. Thus, while the
18 Controller publicly announced his intention to “fix” the problems with the UPL, he
19 continued to assert in this Court and before the Northern District Court that there are no
20 problems, and to argue that this Court's ruling, and the decisions in *Taylor I, Suever*, and
21 *Taylor II*, have no application whatsoever because the multiple, published decisions are
22 wrong and the Controller's conduct is completely legal and Constitutional. *See* Defendants'
23 Memorandum in Opposition to Plaintiffs' Motion for Partial Summary Judgment, *Suever v.*
24 *Westly*, No. CIV-03-00156 (E.D. Cal.) July 18, 2007 (“MPSJ Opp.”). A true and correct
25 copy of the MPSJ Opp. is attached hereto as **Exhibit E**. Plaintiffs have moved for FRCP
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1 Rule 11 and related sanctions against the Controller and his counsel in the *Suever* case for
2 these violations.

3 12. All of these activities, including Defendants' compulsive denial of the reality
4 that the Ninth Circuit has already decided this case in Plaintiffs' favor, have dramatically
5 increased the difficulty, complexity and expense of litigating this case. Regrettably, this
6 "scorched-earth" strategy is deeply troubling when adopted by a publicly-elected official
7 who has taken an oath to uphold the Constitution, and who publicly professes his "shock"
8 and "outrage." (Exhibit C and D, hereto.) In short, Plaintiffs have had to litigate, over the
9 Controller's aggressive objection, every minute point in this case, no matter how
10 insignificant or obvious. In the meantime, Defendants continue to advance arguments that
11 have been repeatedly rejected, and the Defendants are in denial regarding the realities of this
12 litigation. Echoing the Ninth Circuit, the Northern District Court recently remarked that
13 "Plaintiffs' obvious frustration with the apparent inability of the Controller to 'get it' is
14 therefore understandable." Order Denying Application for Temporary Restraining Order,
15 *Suever v. Chiang*, No. C 03-00156 RS (E.D. Cal. August 27, 2007) at 2:19-20 (attached
16 hereto as **Exhibit F**).

17 13. Plaintiffs' counsel have expended enormous resources creating the successful
18 outcome in this case. In addition to the tens of thousands of dollars of expenses that counsel
19 has incurred, this case has consumed an enormous amount of attorney time—time for which
20 none of the attorneys has ever received any compensation whatsoever. As a result, this case
21 has created significant hardship for Plaintiffs' counsel. I have personally financed a
22 significant percentage of this case through a second mortgage on my home, credit cards, and
23 other indebtedness. This case has taken its toll on my personal financial situation, as well as
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1 my co-counsel. In addition to the burden of financing this litigation, I have been deprived of
2 the opportunity to take on other work that could have generated a steady income for my
3 firm. Likewise, because I have not received any compensation for my work to date, I have
4 lost the time-value of the income I would have received if I were compensated regularly, as
5 well as the opportunity to invest such income.

7 14. Nevertheless, because the Ninth Circuit ruled in our favor in March, 2005,
8 my co-counsel and I elected to find a way to vindicate our clients' rights, and to correct the
9 enormous injustice perpetrated by the Controller over the past two decades. On August 27,
10 2007, Governor Schwarzenegger signed SB 86, which is the first concrete step in correcting
11 the Controller's vast misconduct. Without our efforts, the 8.2 million owners of the \$5.1
12 Billion Unclaimed Property Fund would never receive Constitutional Notice of the seizure
13 of their property, and the Controller would have continued to recklessly seize billions more.
14 This case will result in the vindication of important Constitutional rights for millions of
15 individuals, past and future. This is an extraordinary result, particularly given the hurdles
16 that Plaintiffs surmounted at each stage of the case. When my firm obtains an extraordinary
17 result on behalf of a client, my clients will typically pay a premium—*i.e.*, either a “bonus”
18 or an increased billing rate, for the extraordinary result. I am familiar with other firms who
19 likewise receive a “premium” for extraordinary results that they obtain on behalf of their
20 clients.
21

22 I declare under penalty of perjury that the foregoing is true and correct.
23

24 Dated: September 18, 2007
25

26
27 _____/s/
28 William W. Palmer, Esq.

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Exhibit A

Time Report and Invoice

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September 18, 2007

Re: *Taylor v. Intel*; Santa Clara Superior Court Case No. CV796629

Services rendered at the rate of \$400.00 per hour;

Date	Hours	Attorney	Description	Amount
1/2/2001	1.2	WWP	Prepare letter to clients regarding Potential Claims against the California Controller	\$ 480.00
2/18/2001	1.8	WWP	Legal research ("LR") regarding statute of limitations	\$ 720.00
3/13/2007	1.8	WWP	Legal research regarding statute of limitations	\$ 720.00
4/9/2001	0.3	WWP	Emails from and to associate regarding Potential Claims against the California Controller	\$ 120.00
5/29/2001	1.3	WWP	Telephone conference with ("TCW") client regarding potential claims against the Controller	\$ 520.00
5/30/2001	4.5	WWP	Legal Research ("LR") regarding Potential Claims against the Controller.	\$ 1,800.00
5/31/2001	7.5	WWP	Continue LR Potential Claims against the Controller	\$ 3,000.00
6/1/2001	10.0	WWP	Continue LR Potential Claims against the Controller	\$ 4,000.00
6/2/2007	6.5	WWP	Continue LR Potential Claims against the Controller	\$ 2,600.00
6/4/2007	8.5	WWP	Continue LR Potential Claims against the Controller	\$ 3,400.00
6/5/2001	5.5	WWP	Continue LR Potential Claims against the Controller	\$ 2,200.00
6/6/2001	0.4	WWP	Email to Client re quick update	\$ 160.00
6/7/2001	9.3	WWP	Emails to and from Client re status and follow up; review microfiche to determine last date of published notice to unclaimed property owners.	\$ 3,720.00
6/8/2001	0.5	WWP	LT Client forwarding necessary documents and quick update	\$ 200.00
6/9/2001	8.5	WWP	LR and continue review of Constitutional Violation and UPL; Statute of Limitations;	\$ 3,400.00

Date	Hours	Attorney	Description	Amount
Meeting with Investigators				
6/11/2001	2.9	WWP	LT co-counsel regarding fees and update, and assemble materials	\$ 1,160.00
6/12/2001	3.1	WWP	Plan strategy regarding claims against the Controller; Prepare draft complaint against the California Controller	\$ 1,240.00
6/22/2001	0.5	WWP	Review law relevant to Constitutional Violations.	\$ 200.00
6/25/2001	3.5	WWP	LR and prepare lengthy memorandum to file re Attorney Work Product	\$ 1,400.00
7/6/2002	0.4	WWP	LF associate regarding future work	\$ 160.00
7/7/2001	4.8	WWP	TCW and emails to and from Client and multiple TCWs and emails from and to investigator arranging for trip to England ; Follow-up on Department of Trade and Industry, review same	\$ 1,920.00
7/9/2001	72.0	WWP	Multiple emails to and from Clients re travel arrangements to England, pick up and hotel; Travel to airport and flight to London, England; Meeting with clients in London, England, and return	\$ 28,800.00
8/20/2001	0.6	WWP	Email to Client re trip to England, update, next steps and current issues, including potential claims against Controller	\$ 240.00
9/3/2001	4.5	WWP	Meet with potential client Nancy Pepple-Gonsalves regarding escheat of stock to Controller.	\$ 1,800.00
9/4/2001	8.5	WWP	LR California Unclaimed Property Law ("UPL")	\$ 3,400.00
9/5/2001	7.6	WWP	Continue LR UPL	\$ 3,040.00
9/13/2002	0.5	WWP	TCW associates discussed status and update	\$ 200.00
9/14/2001	2.5	WWP	TCW Client Pepple-Gonsalves regarding case; LR escheatment of stock.	\$ 1,000.00
9/18/2001	4.1	WWP	LR escheatment issues; continue to draft complaint against Controller; TCW Associate discussed status	\$ 1,640.00
9/19/2001	0.9	WWP	Update outline of Complaint	\$ 360.00
9/27/2001	0.3	WWP	TCW associate discussed status and update	\$ 120.00

Date	Hours	Attorney	Description	Amount
10/12/2001	4.5	WWP	Morning meeting with counsel regarding Due Diligence issues in Sacramento State University-review microfiche of newspaper for LA Times, SF Chronicle, Sacramento Bee regarding preceeding decade from 1991 to confirm no public notice	\$ 1,800.00
10/13/2001	4.0		Due Diligence issues research in Sacramento State University-review microfiche of newspaper for LA Times, SF Chronicle, Sacramento Bee regarding preceeding decade	\$ 1,600.00
10/17/2001	3.5	WWP	Morning meeting with counsel; Complete library due diligence research at CSUS	\$ 1,400.00
10/18/2001	3.5	WWP	Coordinate with counsel regarding his review of records at California State Archives, review copies of proper publicatio notice and meeitn regarding same	\$ 1,400.00
10/19/2001	0.9	WWP	Report to Client, fax regarding same	\$ 360.00
10/22/2001	0.5	WWP	TCW Conner regarding status	\$ 200.00
10/23/2001	10.2	WWP	TCW Client re update; LR UPL and Constitutional cases; securities transfer; LT associates regarding same; Fax same; Meeting with Conner regardin status	\$ 4,080.00
10/24/2001	8.5	WWP	Due Diligence of Controller Employees, TCW co-counsel	\$ 3,400.00
10/26/2001	8.9	WWP	Review LF Controller, TCW co-counsel re same; LR Controller misconduct, impact on client	\$ 3,560.00
10/27/2001	1.0	WWP	TCW counsel in Bakersfiled regarding possible case	\$ 400.00
10/28/2001	1.0	WWP	Forward documents to Bakersfield attorney regarding claims	\$ 400.00
10/29/2001	3.5	WWP	Reivew documents with counsel, continue due diligence meeting with former Controller employee; Meeting with investigators	\$ 1,400.00
10/30/2001	3.5	WWP	LR Bofa v. Corey case, and travel to and from Sacramento Superior Court and order LR on microfishe;	\$ 1,400.00
10/31/2007	1.0	WWP	Meeith with counsel regarding status	\$ 400.00
11/1/2001	1.7	WWP	Forward draft of Complaint to associates; Fax same; TF Counsel regarding same	\$ 680.00
11/2/2001	0.7	WWP	Forward draft of Complaint to associates; Fax same	\$ 280.00

Date	Hours	Attorney	Description	Amount
11/4/2001	1.5	WWP	TCW and meeting with counsel regarding Controller employee Janice Cole	\$ 600.00
11/5/2001	5.5	WWP	Revise Taylor Complaint; TT London Financial Times; Follow up with former Controller employee; TT potential PR Contract; TT LA Times Reporter	\$ 2,200.00
11/6/2001	0.5	WWP	TCW counsel regarding status	\$ 200.00
11/7/2001	1.0	WWP	Meeting with counsel regarding case status, discovery and due diligence issues	\$ 400.00
11/9/2001	0.4	WWP	TCW client regarding status	\$ 160.00
11/12/2001	4.0	WWP	LR and revise Complaint	\$ 1,600.00
11/13/2001	2.5	WWP	LR and revise Complaint	\$ 1,000.00
11/14/2001	2.3	WWP	LR and revise complaint; TCW and emails to associate	\$ 920.00
11/15/2001	3.7	WWP	Emails to and from associate; LR and revise Complaint	\$ 1,480.00
11/16/2001	1.0	WWP	Meeting with counsel; revise complaint LR statutes of 11th Amendment;	\$ 400.00
11/19/2001	0.4	WWP	TCW counsel regarding status	\$ 160.00
11/25/2001	3.0	WWP	TCW counsel reminded of meeting; LR and Draft Complanit	\$ 1,200.00
11/26/2001	11.5	WWP	Emails to and from reporter Martin Wolf/London Newspaper Times re story; LR applicability of UPL to foreign citizens; Meeting with counsel	\$ 4,600.00
11/27/2001	7.8	WWP	TCW Client re update on most recent correspondence, Legal research for motion, news story and federal action; Meeting with investigator	\$ 3,120.00
11/28/2007	1.2	WWP	Email from associate; Moring meeting with counsel	\$ 480.00
11/29/2001	6.1	WWP	Factual research on published notice; TCW counsel regarng complaint	\$ 2,440.00
12/2/2001	7.0	WWP	LR UPL and Controller's Application; Meeting with counsel	\$ 2,800.00
12/4/2001	8.2	WWP	Legal Research Corp. Code § 419, UCC 8505 state laws and cases	\$ 3,280.00
12/6/2001	6.8	WWP	TCW LexisNexis, continue legal research on 419	\$ 2,720.00

Date	Hours	Attorney	Description	Amount
12/7/2001	4.8	WWP	TCW Client at home and work lengthy conversation regarding current issues and next steps, potential claims against California Controller; LR LexisNexis list of cases, pull and review	\$ 1,920.00
12/8/2001	3.9	WWP	Arrange to get Lengthy KPMG Audit Report, and review same	\$ 1,560.00
12/9/2001	7.5	WWP	Review KPMG report on Controller	\$ 3,000.00
12/10/2001	4.5	WWP	Continue review of KPMG report on Controller and related issues	\$ 1,800.00
12/11/2001	6.5	WWP	Update outline of Complaint to add KPMG findings	\$ 2,600.00
12/12/2001	9.5	WWP	Continue LR regarding Controller misconduct	\$ 3,800.00
12/13/2001	9.5	WWP	Begin drafting the complaint against the Controller of California; LR regarding same	\$ 3,800.00
12/14/2001	10.6	WWP	LR regarding possible claims against Controller, and impact on Intel complaint; Continue drafting the complaint	\$ 4,240.00
12/18/2001	0.8	WWP	TCW investigator general update regarding status and potential claims against the Controller	\$ 320.00
12/19/2001	8.5	WWP	LR Reg D. Private Placement, 1933, 1934 Acts	\$ 3,400.00
12/21/2001	8.8	WWP	TCW Client regarding update and fax; LR 1933 and 1934 Acts and continue drafting the complaint against the controller	\$ 3,520.00
12/22/2001	8.9	WWP	TCW Client Nancy Pepple-Gonsalves regarding facts of case; LR history of TWA.	\$ 3,560.00
12/26/2001	3.5	WWP	Continue LR and drafting Complaint	\$ 1,400.00
12/27/2001	10.1	WWP	Continue drafting Complaint; LR tolling of Statute of Limitations	\$ 4,040.00
12/28/2001	9.2	WWP	Continue drafting and LR re Complaint	\$ 3,680.00
12/29/2001	9.5	WWP	LR on statutes and continue drafting complaint against the Controller of California	\$ 3,800.00
12/30/2001	8.5	WWP	LR and continue drafting Complaint against the Controller	\$ 3,400.00
12/31/2001	6.8	WWP	Finalize and file complaint against the controller, forward same to Clients; Prepare Civil Case Cover Sheet; Review same and LR	\$ 2,720.00
1/2/2002	1.3	WWP	Fax to Client regarding cover page of federal action, LR securities laws, impact of claim	\$ 520.00

Date	Hours	Attorney	Description	Amount
1/3/2002	3.7	WWP	Multiple Emails to and from clients and several associates; Forwarding multiple documents and Fax regarding same	\$ 1,480.00
1/4/2002	1.6	WWP	TCWs investigators re new account found for Client; 2xTCW Client re same	\$ 640.00
1/9/2002	5.5	WWP	Fax from attorney Robin B. Johansen regarding substitution of counsel; Multiple TCWs multiple associates regarding status, update and possible next steps	\$ 2,200.00
1/10/2002	0.5	WWP	Emails from and to associates regarding update	\$ 200.00
1/15/2002	1.8	WWP	Multiple TCWs associates	\$ 720.00
1/18/2002	0.2	WWP	TCWs associate regarding case	\$ 80.00
1/21/2002	0.6	WWP	TCW and emails from attorney Robin Johansen	\$ 240.00
1/23/2002	0.2	WWP	TCW attorney Robin Johansen	\$ 80.00
1/24/2002	0.3	WWP	TCW attorney Robin Johansen	\$ 120.00
2/13/2002	0.4	WWP	Emails from and to associates	\$ 160.00
2/14/2002	1.2	WWP	Emails from and to associates regarding update; Several TCWs regarding same	\$ 480.00
2/16/2002	0.2	WWP	Emails from associate	\$ 80.00
2/22/2002	2.0	WWP	Prepare lengthy memorandum to associates; Fax same	\$ 800.00
2/25/2002	0.7	WWP	Arrange for service of process on California Controller; Faxes to associates	\$ 280.00
2/27/2002	1.3	WWP	Prepare lengthy emails to associates	\$ 520.00
2/28/2002	0.8	WWP	Confirm service of process on Controller Kathleen Connell; TCW clients regarding same.	\$ 320.00
3/1/2002	0.9	WWP	File return of service on Kathleen Connell.	\$ 360.00
3/5/2002	2.5	WWP	Prepare Memorandum, forward same to Media associates	\$ 1,000.00
3/6/2002	0.4	WWP	TCW Media associates	\$ 160.00
3/8/2002	0.5	WWP	TCWs attorney Robin Johnasen	\$ 200.00
3/12/2002	1.4	WWP	LT attorney Robin Johansen regarding meeting and settlement discussion	\$ 560.00
3/13/2002	0.6	WWP	TCW and LF counsel for Controller regarding extension of time to answer federal complaint.	\$ 240.00
3/14/2002	2.3	WWP	TCW attorney Robin Johansen; Meeting with attorneys Robin Johansen and James Harrison	\$ 920.00

Date	Hours	Attorney	Description	Amount
3/15/2002	2.1	WWP	TCW and LT associate forwarding necessary documents; Prepare complaint memorandum	\$ 840.00
3/18/2002	0.8	WWP	Review draft stipulation to extend time to answer.	\$ 320.00
3/19/2002	0.5	WWP	TCW attorney Robin Johansen discussed several outstanding issues	\$ 200.00
3/20/2006	1.2	WWP	Finalize and sign off on stipulation to extend time to answer	\$ 480.00
3/21/2002	0.7	WWP	TCW and emails from several associates regarding status and update	\$ 280.00
3/24/2002	0.2	WWP	Email from associate regarding status	\$ 80.00
4/3/2002	0.3	WWP	Facsimile to Client forwarding necessary documents	\$ 120.00
4/5/2002	1.0	WWP	2xTCW Clients discussed severla outstanding issues	\$ 400.00
4/16/2002	0.4	WWP	Email from and facsimile to associate	\$ 160.00
4/18/2002	0.3	WWP	TCW attorney Robin Johansen discussed status	\$ 120.00
4/19/2002	0.8	WWP	TCWs Robin Johansen regarding hearing date; Email to associate regarding same	\$ 320.00
4/22/2002	6.1	WWP	Receive and review motion to dismiss federal complaint; And all the supporting documents	\$ 2,440.00
4/23/2002	5.5	WWP	LR Eleventh Amendment	\$ 2,200.00
4/24/2002	7.5	WWP	LR Eleventh Amendment; Prepare draft of Opposition to Motion to Dismiss	\$ 3,000.00
4/25/2002	5.5	WWP	Work on Joint Status Report; LR various legal issues raised in motion to dismiss	\$ 2,200.00
4/26/2002	8.5	WWP	Continue work on Joint Status Report; begin drafting Opposition to Motion to Dismiss.	\$ 3,400.00
4/27/2002	6.5	WWP	Continue drafting Opposition to Motion to Dismiss.	\$ 2,600.00
4/28/2002	8.7	WWP	Continue drafting Opposition to Motion to Dismiss; LR re same.	\$ 3,480.00
4/29/2002	10.5	WWP	Finalize and sign off on Joint Status Conference Report; continue drafting Opposition to Motion to Dismiss.	\$ 4,200.00
4/30/2002	3.5	WWP	LR Eleventh Amendment	\$ 1,400.00
5/1/2002	4.5	WWP	Review Motion to Dismiss; continue reading cases cited; Faxes to assoictes regarding same	\$ 1,800.00
5/2/2002	6.8	WWP	Continue drafting opposition to Motion to Dismiss	\$ 2,720.00

Date	Hours	Attorney	Description	Amount
5/6/2002	0.5	WWP	LT Clients regarding Motion to Dismiss	\$ 200.00
5/7/2002	5.6	WWP	Continue drafting Opposition to Motion to Dismiss	\$ 2,240.00
5/8/2002	8.5	WWP	Continue drafting Opposition to Motion to Dismiss	\$ 3,400.00
5/9/2002	9.1	WWP	LR statutes of limitations; continue drafting Opposition to Motion to Dismiss	\$ 3,640.00
5/10/2002	6.5	WWP	LR Constitutional Notice.	\$ 2,600.00
5/13/2002	8.5	WWP	Continue drafting Opposition to Motion to Dismiss	\$ 3,400.00
5/14/2002	1.1	WWP	TCWs associates regarding several outstanding issues	\$ 440.00
5/15/2002	6.5	WWP	Continue drafting Opposition to Motion to Dismiss	\$ 2,600.00
5/16/2002	10.7	WWP	LR Tort Claims Act.	\$ 4,280.00
5/17/2002	11.3	WWP	Continue drafting Opposition to Motion to Dismiss	\$ 4,520.00
5/20/2002	3.5	WWP	Continue drafting Opposition to Motion to Dismiss	\$ 1,400.00
5/21/2002	6.7	WWP	Draft Opposition to Motion to Dismiss.	\$ 2,680.00
5/22/2002	8.5	WWP	Continue drafting Opposition to Motion to Dismiss	\$ 3,400.00
5/23/2002	6.7	WWP	Continue drafting Opposition to Motion to Dismiss	\$ 2,680.00
5/24/2002	9.5	WWP	Continue Opposition to Motion to Dismiss; and LR regarding same and other issues	\$ 3,800.00
5/25/2002	3.5	WWP	Review draft of Opposition to Motion; LR to fill gaps in research.	\$ 1,400.00
5/27/2002	11.3	WWP	LR securities laws, Fourteenth Amendment to U.S. Constitution; review KPMG report	\$ 4,520.00
5/28/2002	10.5	WWP	LR sovereign immunity, other issues; continue drafting.	\$ 4,200.00
5/29/2002	13.0	WWP	Draft Opposition to Motion to Dismiss.	\$ 5,200.00
5/30/2002	11.5	WWP	Review tables of authorities, contents; edit final draft of brief.	\$ 4,600.00
5/31/2002	9.2	WWP	Finalize and file Opposition to Motion to Dismiss with Court; Arrange for Service (\$140.00); Emails from and to attorney James Harrison	\$ 3,680.00
6/1/2002	0.2	WWP	Email to attorney James Harrison	\$ 80.00

Date	Hours	Attorney	Description	Amount
6/3/2002	0.6	WWP	Facsimile to associate attorneys forwarding documents	\$ 240.00
6/4/2002	4.7	WWP	Organize files; LT Clients enclosing copies of filings; TCW associate attorneys regarding status	\$ 1,880.00
6/5/2002	0.8	WWP	LT Clients regarding Motion to Dismiss	\$ 320.00
6/7/2002	7.0	WWP	Read Reply to Opposition to Motion to Dismiss; LR cases cited; LR and Prepare lengthy LT Securities and Exchange Commission regarding Complaint	\$ 2,800.00
6/8/2002	5.2	WWP	Review cited cases; begin preparation for oral argument.	\$ 2,080.00
6/9/2002	7.1	WWP	Review cases; outline oral argument.	\$ 2,840.00
6/10/2002	7.7	WWP	Continue preparation for oral argument; TCW court, and associates regarding status; Review Minute Order regarding hearing date	\$ 3,080.00
6/11/2002	4.6	WWP	Continue preparation for oral argument; TCW Client regarding update	\$ 1,840.00
6/12/2002	1.8	WWP	Prepare for oral argument on motion to dismiss; Emails to and from associates	\$ 720.00
6/13/2002	7.1	WWP	Prepare for oral argument; review Order of Court vacating oral argument; Email to associate regarding same	\$ 2,840.00
6/16/2002	1.7	WWP	Organize files	\$ 680.00
6/20/2002	0.8	WWP	Review Memorandum and Order from the Court	\$ 320.00
6/27/2002	3.7	WWP	Review order of court dismissing case; LR federal appellate rules, filing appeal	\$ 1,480.00
6/28/2002	8.2	WWP	LR general appellate practice; contact attorney Daniel Culhane to discuss association in case; Emails to and from associates regarding same	\$ 3,280.00
6/28/2002	1.8	DJC	TCW attorney William Palmer ("WWP") regarding association into case.	\$ 720.00
6/29/2002	6.7	WWP	Prepare package of materials to attorney Daniel Culhane ("DJC") for his review; begin drafting memorandum regarding same	\$ 2,680.00
6/30/2002	3.5	WWP	Continue memorandum regarding case to DJC	\$ 1,400.00
7/1/2002	4.2	DJC	Receive materials from WWP; begin review.	\$ 1,680.00
7/1/2002	5.5	WWP	Complete work product memorandum to DJC	\$ 2,200.00
7/2/2002	6.5	DJC	Review WWP memorandum and materials	\$ 2,600.00

Date	Hours	Attorney	Description	Amount
7/5/2002	1.5	WWP	TCW DJC regarding association into case.	\$ 600.00
7/5/2002	5.5	DJC	Review materials; TCW WWP to discuss association into case	\$ 2,200.00
7/6/2002	6.7	DJC	Analyze strengths and weaknesses of case; evaluate association; TCW co-counsel WWP	\$ 2,680.00
7/6/2002	1.3	WWP	TCWs co-counsel DCJ	\$ 520.00
7/8/2002	3.5	DJC	Further analysis, discussions with WWP	\$ 1,400.00
7/8/2002	2.6	WWP	Negotiate terms of association with DJC; Emails to and from other associates regarding same	\$ 1,040.00
7/9/2002	2.5	WWP	LT DJC confirming terms of association	\$ 1,000.00
7/9/2002	8.7	DJC	LR appeal process, procedural issues; review letter confirming terms of association.	\$ 3,480.00
7/10/2002	10.1	DJC	LR Eleventh Amendment; review treatise; begin pulling Supreme Court authority; TCW and emails to and from co-counsel regarding same	\$ 4,040.00
7/10/2002	0.9	WWP	TCW and emails from and to co-counsel regarding LR	\$ 360.00
7/11/2002	9.1	DJC	LR Eleventh Amendment; read fundamental Eleventh Amendment cases; TCW and emails from and to co-counsel regarding same	\$ 3,640.00
7/11/2002	1.0	WWP	TCW and emails from and to co-counsel regarding LR	\$ 400.00
7/12/2002	8.7	DJC	LR Eleventh Amendment; review materials regarding likelihood of success of appeal; multiple TCWs WWP	\$ 3,480.00
7/12/2002	6.5	WWP	Organize additional materials for DJC; TCWs with DJC	\$ 2,600.00
7/13/2002	3.5	DJC	Outline of issues to discuss with WWP; TCW WWP	\$ 1,400.00
7/13/2002	1.5	WWP	TCW DJC regarding appeals process, strategy	\$ 600.00
7/14/2002	0.9	DJC	Work on outline of issues; TCW from and to co-counsel regarding same	\$ 360.00
7/14/2002	0.3	WWP	TCW from and to co-counsel	\$ 120.00
7/15/2002	9.1	DJC	Identify and research appellate procedure issues necessary to prosecute appeal; TCW WWP re same	\$ 3,640.00
7/15/2002	6.5	WWP	TCW DJC regarding appellate issues; LR re same	\$ 2,600.00
7/16/2002	13.3	DJC	LR substantive issues; identify and read key Supreme Court Eleventh Amendment cases	\$ 5,320.00

Date	Hours	Attorney	Description	Amount
7/16/2002	3.6	WWP	TCW DJC regarding strategy, issues, litigation plan	\$ 1,440.00
7/17/2002	6.6	DJC	Continue LR Eleventh Amendment; outline key cases; study Treasure Salvors case; TCW WWP	\$ 2,640.00
7/17/2002	1.0	WWP	TCW DJC	\$ 400.00
7/18/2002	8.1	DJC	Obtain and study forms of notice of appeal, designation of transcript, representation statement, other forms; draft notice of appeal; TCW WWP	\$ 3,240.00
7/18/2002	7.8	WWP	TCW colleagues to obtain form documents; review files to identify factual materials	\$ 3,120.00
7/19/2002	5.5	DJC	Revise notice of appeal, related documents; TCW WWP; forward drafts to WWP for review	\$ 2,200.00
7/19/2002	6.6	WWP	Review draft notice of appeal; TCW DJC; edit and prepare documents for filing.	\$ 2,640.00
7/20/2002	0.2	WWP	Facsimile to associate forwarding necessary documents	\$ 80.00
7/20/2002	8.1	DJC	LR substantive issues for appeal	\$ 3,240.00
7/22/2002	6.5	WWP	Review draft plan for completing appeal; edit same; continue research	\$ 2,600.00
7/22/2002	7.3	DJC	Prepare plan for managing appeal with timelines, division of tasks, issues; continue legal research; TCW WWP	\$ 2,920.00
7/23/2002	4.5	WWP	LR statute of limitations, other issues; TCW DJC; Send materials to attorney Brian Boydston	\$ 1,800.00
7/23/2002	6.1	DJC	Outline legal arguments	\$ 2,440.00
7/24/2002	7.5	WWP	Begin drafting facts for appellate brief; TCW DJC	\$ 3,000.00
7/24/2002	5.3	DJC	TCW WWP; continue legal research, including Ninth Circuit authority	\$ 2,120.00
7/25/2002	7.8	WWP	Edit and finalize notice of appeal and related documents; prepare for filing; LR substantive issues	\$ 3,120.00
7/25/2002	8.1	DJC	Finalize notice of appeal for filing; TCW WWP	\$ 3,240.00
7/26/2002	6.5	WWP	File notice of appeal, representation statement, designation of record, proof of service; continue LR; TCW DJC	\$ 2,600.00
7/26/2002	3.8	DJC	TCW WWP; update plan for appellate brief; research filing deadlines	\$ 1,520.00

Date	Hours	Attorney	Description	Amount
6/29/2007	0.4	DJC	TCW from and to co-counsel	\$ 160.00
7/29/2002	3.1	WWP	Continue factual background section of brief; TCW from and to co-counsel	\$ 1,240.00
7/30/2002	5.5	DJC	Revise and update outline of appellate brief; forward and discuss with WWP; draft headers	\$ 2,200.00
7/30/2002	5.8	WWP	TCW DJC regarding outline of brief; continue drafting	\$ 2,320.00
7/31/2002	1.0	WWP	Email from associate; Review Notice from the Court	\$ 400.00
7/31/2002	6.0	DJC	Draft Statement of Case, Issues Presented, begin argument section	\$ 2,400.00
8/1/2002	9.7	DJC	Begin drafting Eleventh Amendment argument	\$ 3,880.00
8/1/2002	3.2	WWP	Complete draft of factual section; TCW DJC	\$ 1,280.00
8/2/2002	8.7	WWP	Begin drafting procedural history; LR standard of review; TCW DJC and other attorney; Review Time Scheduling Order	\$ 3,480.00
8/2/2002	6.8	DJC	TCW WWP; review and edit factual section; review law review articles and treatises relevant to UPL	\$ 2,720.00
8/3/2002	5.1	DJC	TCW WWP; continue drafting Eleventh Amendment argument	\$ 2,040.00
8/3/2002	1.2	WWP	TCW DJC	\$ 480.00
8/5/2002	9.5	DJC	Follow up LR to develop theory under Supreme Court authority	\$ 3,800.00
8/5/2002	0.5	WWP	TCW DJC regarding Eleventh Amendment argument	\$ 200.00
8/6/2002	6.7	DJC	Continue drafting Eleventh Amendment argument; forward same to WWP	\$ 2,680.00
8/7/2002	6.7	WWP	Review and revise draft Eleventh Amendment argument; review cases	\$ 2,680.00
8/7/2002	9.1	DJC	TCW WWP regarding Eleventh Amendment argument; LR interplay of Eleventh Amendment immunity and general sovereign immunity	\$ 3,640.00
8/8/2002	1.5	DJC	TCW WWP; review revised Eleventh Amendment argument	\$ 600.00
8/8/2002	7.9	WWP	Continue editing Eleventh Amendment argument; begin second draft of fact section; TCW DJC, and TCW attorney Brian Boydston	\$ 3,160.00
8/9/2002	8.5	DJC	Continue LR and drafting Opening Brief; TCW	\$ 3,400.00

Date	Hours	Attorney	Description	Amount
			with co-counsel.	
8/9/2002	9.3	WWP	Continue LR and drafting Opening Brief; TCW with co-counsel DJC and Brian Boydston.	\$ 3,720.00
8/10/2002	5.6	WWP	Continue LR and continue drafting Opening Brief; TCW and emails to and from co-counsel regarding same	\$ 2,240.00
8/10/2002	4.8	DJC	Continue LR and drafting Opening Brief; TCW with co-counsel.	\$ 1,920.00
8/12/2002	11.3	DJC	TCW with co-counsel coordinate on LR and drafting Opening Brief; .	\$ 4,520.00
8/12/2002	8.9	WWP	Legal research; TCW attorney DJC and continue revising Opening Brief	\$ 3,560.00
8/13/2002	13.3	WWP	Continue legal research and TCW attorney DJC and continue revising Opening Brief	\$ 5,320.00
8/13/2002	14.1	DJC	Emails from and to and TCW attorney WWP; Continue LR and drafting Opening Brief; TCW with co-counsel.	\$ 5,640.00
8/14/2002	12.5	DJC	Emails to and from and TCW co-counsel; LR and revisions to Opening Brief as needed	\$ 5,000.00
8/14/2002	10.5	WWP	TCW co-counsel DJC and emails regarding same; Legal research and continue drafting Opening Brief	\$ 4,200.00
8/15/2002	11.9	WWP	Continue LR and revisions to Opening Brief; TCW and emails from and to co-counsel WWP coordinate regarding same.	\$ 4,760.00
8/15/2002	9.1	DJC	Emails from and to WWP; TCW regarding same; Continue LR and revising Opening Brief.	\$ 3,640.00
8/16/2002	8.6	WWP	LR and drafting Opening Brief; TCW and emails from and to co-counsel DJC	\$ 3,440.00
8/16/2002	11.1	DJC	Continue LR and drafting Opening Brief; TCW with co-counsel.	\$ 4,440.00
8/17/2002	9.1	WWP	TCW and emails from and to co-counsel DJC; LR and drafting Opening Brief; TCW with co-counsel.	\$ 3,640.00
8/17/2002	3.5	DJC	Continue LR and drafting Opening Brief; TCW with co-counsel.	\$ 1,400.00
8/18/2002	5.5	DJC	Continue LR and drafting Opening Brief; TCW with co-counsel.	\$ 2,200.00
8/18/2002	0.9	WWP	TCW from and to co-counsel	\$ 360.00

Date	Hours	Attorney	Description	Amount
8/19/2002	14.1	WWP	LR and drafting Opening Brief; TCW and emails from and to co-counsel DJC	\$ 5,640.00
8/19/2002	10.5	DJC	Continue LR and drafting Opening Brief; TCW with co-counsel.	\$ 4,200.00
8/20/2002	13.5	WWP	TCW and emails from and to co-counsel DJC; Continue LR and drafting Opening Brief;	\$ 5,400.00
8/20/2002	13.5	DJC	Continue LR and drafting Opening Brief; TCW with co-counsel.	\$ 5,400.00
8/21/2002	5.8	WWP	LR and TCW and emails from and to co-counsel DJC regarding drafting Opening Brief	\$ 2,320.00
8/21/2002	13.1	DJC	Continue LR and drafting Opening Brief; TCW with co-counsel.	\$ 5,240.00
8/22/2002	10.9	WWP	TCW and emails from and to co-counsel DJC; Continue LR and drafting Opening Brief; TCW with co-counsel.	\$ 4,360.00
8/22/2002	11.1	DJC	Continue LR and drafting Opening Brief; TCW with co-counsel.	\$ 4,440.00
8/23/2002	9.3	WWP	TCW and emails from and to co-counsel DJC; Legal research and drafting Opening Brief; TCW with co-counsel.	\$ 3,720.00
8/23/2002	9.3	DJC	Continue LR and drafting Opening Brief; TCW with co-counsel.	\$ 3,720.00
8/24/2002	4.5	WWP	Continue LR and drafting Opening Brief; TCW with co-counsel.	\$ 1,800.00
8/24/2002	8.6	DJC	LR and drafting Opening Brief; .	\$ 3,440.00
8/25/2002	4.5	WWP	Continue LR and drafting Opening Brief; TCW with co-counsel.	\$ 1,800.00
8/25/2002	3.2	DJC	LR and drafting Opening Brief; TCW with co-counsel;TCW and emails from and to co-counsel DJC	\$ 1,280.00
8/26/2002	10.0	WWP	Legal research and continue drafting Opening Brief; TCW and multiple meilas to and from associate attorney regarding same.	\$ 4,000.00
8/26/2002	10.0	DJC	Continue LR and drafting Opening Brief; TCW with co-counsel.	\$ 4,000.00
8/27/2002	8.5	WWP	TCW and emails from and to co-counsel DJC; Continue LR and drafting Opening Brief; TCW with co-counsel.	\$ 3,400.00
8/27/2002	10.0	DJC	Continue LR and drafting Opening Brief; TCW with co-counsel.	\$ 4,000.00

Date	Hours	Attorney	Description	Amount
8/28/2002	11.1	WWP	LR and drafting Opening Brief; TCW and emails from and to co-counsel DJC.	\$ 4,440.00
8/28/2002	11.0	DJC	Continue LR and drafting Opening Brief; TCW with co-counsel.	\$ 4,400.00
8/29/2002	9.6	WWP	TCW and emails from and to co-counsel DJC; LR and drafting Opening Brief	\$ 3,840.00
8/29/2002	9.0	DJC	Continue LR and drafting Opening Brief; TCW with co-counsel.	\$ 3,600.00
8/30/2002	13.3	WWP	Legal research and TCW and emails from and to co-counsel DJC regarding draft Opening Brief	\$ 5,320.00
8/30/2002	14.1	DJC	Continue LR and drafting Opening Brief; TCW with co-counsel.	\$ 5,640.00
8/31/2002	12.5	WWP	TCW and emails from and to co-counsel DJC; LR and drafting Opening Brief;	\$ 5,000.00
8/31/2002	10.5	DJC	Continue LR and drafting Opening Brief; TCW with co-counsel.	\$ 4,200.00
9/1/2002	11.9	WWP	TCW and emails from and to co-counsel DJC; Continue LR and drafting Opening Brief; TCW with co-counsel.	\$ 4,760.00
9/1/2002	9.1	DJC	Continue LR and drafting Opening Brief; TCW with co-counsel.	\$ 3,640.00
9/2/2002	8.6	WWP	Continue LR and drafting Opening Brief; TCW and emails from and to co-counsel DJC	\$ 3,440.00
9/2/2002	11.1	DJC	Continue LR and drafting Opening Brief; TCW with co-counsel.	\$ 4,440.00
9/3/2002	9.1	WWP	Legal research and continue revising Opening Brief; TCW and emails from and to co-counsel DJC	\$ 3,640.00
9/3/2002	3.5	DJC	Continue LR and drafting Opening Brief; TCW with co-counsel.	\$ 1,400.00
9/4/2002	5.5	DJC	Continue LR and drafting Opening Brief; TCW with co-counsel.	\$ 2,200.00
9/4/2002	7.5	WWP	Continue LR and drafting Opening Brief; TCWs with co-counsel; request 14-day extension from court to file Opening Brief.	\$ 3,000.00
9/5/2002	14.1	DJC	Continue LR and drafting Opening Brief; TCW with co-counsel.	\$ 5,640.00
9/5/2002	10.5	WWP	Continue LR and drafting Opening Brief; TCW with co-counsel.	\$ 4,200.00
9/6/2002	13.5	DJC	Continue LR and drafting Opening Brief; TCW	\$ 5,400.00

Date	Hours	Attorney	Description	Amount
			with co-counsel.	
9/6/2002	13.5	WWP	Continue LR and drafting Opening Brief; TCW with co-counsel.	\$ 5,400.00
9/7/2002	3.0	DJC	Continue LR and drafting Opening Brief; TCW with co-counsel.	\$ 1,200.00
9/7/2002	5.0	WWP	Continue LR and drafting Opening Brief; TCW with co-counsel.	\$ 2,000.00
9/9/2002	9.3	DJC	Continue LR and drafting Opening Brief; TCW with co-counsel.	\$ 3,720.00
9/9/2002	9.3	WWP	Continue LR and drafting Opening Brief; TCW with co-counsel.	\$ 3,720.00
9/10/2002	4.5	DJC	Continue LR and drafting Opening Brief; TCW with co-counsel.	\$ 1,800.00
9/10/2002	8.6	WWP	Emails to and from and TCW associate attorney DJC; Continue legal research and continue drafting Opening Brief	\$ 3,440.00
9/11/2002	9.5	DJC	TCW and emails from and to co-counsel WWP; Continue drafting Opening Brief	\$ 3,800.00
9/11/2002	7.9	WWP	Continue LR and drafting Opening Brief; TCW with co-counsel.	\$ 3,160.00
9/12/2002	10.0	DJC	Continue LR and drafting Opening Brief; TCW with co-counsel.	\$ 4,000.00
9/12/2002	10.0	WWP	Continue LR and drafting Opening Brief; TCW with co-counsel.	\$ 4,000.00
9/13/2002	8.5	DJC	Continue LR and drafting Opening Brief; TCW with co-counsel.	\$ 3,400.00
9/13/2002	10.0	WWP	Continue LR and drafting Opening Brief; TCW with co-counsel.	\$ 4,000.00
9/14/2002	11.1	DJC	Continue LR and drafting Opening Brief; TCW with co-counsel.	\$ 4,440.00
9/14/2002	11.0	WWP	Continue LR and drafting Opening Brief; TCW with co-counsel.	\$ 4,400.00
9/15/2002	9.6	DJC	Continue LR and drafting Opening Brief; TCW with co-counsel.	\$ 3,840.00
9/15/2002	9.0	WWP	Continue LR and drafting Opening Brief; TCW with co-counsel.	\$ 3,600.00
9/16/2002	13.3	DJC	Continue LR and drafting Opening Brief; TCW with co-counsel.	\$ 5,320.00
9/16/2002	14.1	WWP	Continue LR and drafting Opening Brief; TCW with co-counsel.	\$ 5,640.00
9/17/2002	12.5	DJC	Continue LR and drafting Opening Brief; TCW with co-counsel.	\$ 5,000.00

Date	Hours	Attorney	Description	Amount
9/17/2002	10.5	WWP	Continue LR and drafting Opening Brief; TCW with co-counsel.	\$ 4,200.00
9/18/2002	11.9	DJC	Continue LR and drafting Opening Brief; TCW with co-counsel.	\$ 4,760.00
9/18/2002	9.1	WWP	Continue LR and drafting Opening Brief; TCW with co-counsel.	\$ 3,640.00
9/19/2002	8.6	DJC	Continue LR and drafting Opening Brief; TCW with co-counsel.	\$ 3,440.00
9/19/2002	11.1	WWP	Continue LR and drafting Opening Brief; TCW with co-counsel.	\$ 4,440.00
9/20/2002	9.1	DJC	Continue LR and drafting Opening Brief; TCW with co-counsel.	\$ 3,640.00
9/20/2002	8.0	WWP	Continue LR and drafting Opening Brief; TCW with co-counsel.	\$ 3,200.00
9/21/2002	13.6	DJC	Continue LR and drafting Opening Brief; TCW with co-counsel.	\$ 5,440.00
9/21/2002	11.0	WWP	Continue LR and drafting Opening Brief; TCW with co-counsel.	\$ 4,400.00
9/22/2002	9.0	WWP	Continue LR and drafting Opening Brief; TCW with co-counsel.	\$ 3,600.00
9/22/2002	10.5	DJC	Continue LR and drafting Opening Brief; TCW with co-counsel.	\$ 4,200.00
9/23/2002	13.5	WWP	Continue LR and drafting Opening Brief; TCW with co-counsel.	\$ 5,400.00
9/23/2002	13.5	DJC	Work on tables, pagination, formatting, finalizing brief.	\$ 5,400.00
9/24/2002	10.0	WWP	Edit final draft of brief; prepare for filing	\$ 4,000.00
9/24/2002	13.0	DJC	Finalize brief.	\$ 5,200.00
9/25/2002	14.0	WWP	Finalize brief; copy, file and serve opening brief and supporting documents	\$ 5,600.00
9/25/2002	15.0	DJC	Final proofreading and correction of brief.	\$ 6,000.00
9/26/2002	9.0	WWP	Organize files; conference with co-counsel; LTR regarding same.	\$ 3,600.00
9/26/2002	4.5	DJC	File drafts, legal research, other materials.	\$ 1,800.00
9/27/2002	8.5	WWP	Filing and organization; conference with co-counsel regarding anticipated opposition arguments.	\$ 3,400.00
9/27/2002	1.0	DJC	Conference with co-counsel.	\$ 400.00

Date	Hours	Attorney	Description	Amount
9/30/2002	3.5	WWP	TCW clients; LT clients regarding status, providing copy of opening brief; forward file-stamped, bound copy of brief to co-counsel.	\$ 1,400.00
9/30/2002	1.0	DJC	Conference with co-counsel; strategy and planning.	\$ 400.00
10/2/2007	0.3	WWP	Telephone call to attorney Brian Boydston	\$ 120.00
10/4/2002	1.5	DJC	Emails to and from co-counsel WWP regarding status	\$ 600.00
10/4/2002	2.5	WWP	Emails to and from associate attorney DJC and other associates; Research Intel stock value	\$ 1,000.00
10/9/2002	0.2	DJC	Emails from co-counsel regarding update and follow up	\$ 80.00
10/9/2002	0.3	WWP	Emails to associates regarding status	\$ 120.00
10/15/2002	0.4	WWP	LF attorney James Harrison regarding new briefing schedule	\$ 160.00
10/16/2002	1.0	WWP	Review court's order granting extension for filing of answer brief; conference with co-counsel.	\$ 400.00
10/16/2002	1.5	DJC	Review court's order granting extension for filing of answer brief; conference with co-counsel.	\$ 600.00
10/21/2002	0.8	DJC	TCW's co-counsel WWP regarding rule of law	\$ 320.00
10/21/2002	0.8	WWP	TCW's attorney DJC regarding possible extension and rules	\$ 320.00
10/28/2002	0.3	DJC	Emails to co-counsel WWP regarding rules of court	\$ 120.00
10/28/2002	0.4	WWP	Emails from attorney DJC regarding extension and rule of court; TCW Brian Boydston regarding same;	\$ 160.00
11/6/2002	0.3	WWP	TCW attorney James Harrison regarding Opening Briefs	\$ 120.00
11/7/2002	1.0	WWP	Conference with co-counsel regarding appellee's brief.	\$ 400.00
11/7/2002	1.0	DJC	Conference with co-counsel regarding appellee's brief.	\$ 400.00
11/8/2002	3.5	WWP	Review appellee's answer brief; conference with co-counsel regarding reply brief.	\$ 1,400.00
11/8/2002	8.6	DJC	Review appellee's answer brief; conference with co-counsel regarding reply brief; begin LR to respond to answer brief.	\$ 3,440.00
11/9/2002	11.1	WWP	LR and begin drafting Reply Brief	\$ 4,440.00
11/9/2002	9.1	DJC	LR and begin drafting Reply Brief	\$ 3,640.00

Date	Hours	Attorney	Description	Amount
11/10/2002	3.5	DJC	LR and continue drafting Reply Brief	\$ 1,400.00
11/11/2002	5.5	WWP	LR and continue drafting Reply Brief	\$ 2,200.00
11/11/2002	14.1	DJC	LR and continue drafting Reply Brief	\$ 5,640.00
11/12/2002	10.5	WWP	LR and continue drafting Reply Brief	\$ 4,200.00
11/12/2002	13.5	DJC	LR and continue drafting Reply Brief	\$ 5,400.00
11/13/2002	13.5	WWP	LR and continue drafting Reply Brief	\$ 5,400.00
11/13/2002	5.8	DJC	LR and continue drafting Reply Brief	\$ 2,320.00
11/14/2002	13.1	WWP	LR and continue drafting Reply Brief	\$ 5,240.00
11/14/2002	10.9	DJC	LR and continue drafting Reply Brief	\$ 4,360.00
11/15/2002	11.1	WWP	LR and continue drafting Reply Brief; TCW Court to obtain 14-day extention to file Reply Brief; Confirm with opposing counsel	\$ 4,440.00
11/15/2002	9.3	DJC	LR and continue drafting Reply Brief	\$ 3,720.00
11/16/2002	9.3	WWP	LR and continue drafting Reply Brief	\$ 3,720.00
11/16/2002	4.5	DJC	LR and continue drafting Reply Brief	\$ 1,800.00
11/17/2002	8.6	WWP	LR and continue drafting Reply Brief	\$ 3,440.00
11/17/2002	4.5	DJC	LR and continue drafting Reply Brief	\$ 1,800.00
11/18/2002	3.2	WWP	LR and continue drafting Reply Brief	\$ 1,280.00
11/18/2002	10.0	DJC	LR and continue drafting Reply Brief	\$ 4,000.00
11/19/2002	10.0	WWP	LR and continue drafting Reply Brief	\$ 4,000.00
11/19/2002	8.5	DJC	LR and continue drafting Reply Brief	\$ 3,400.00
11/20/2002	10.0	WWP	LR and continue drafting Reply Brief	\$ 4,000.00
11/20/2002	11.1	DJC	LR and continue drafting Reply Brief	\$ 4,440.00
11/21/2002	11.0	WWP	LR and continue drafting Reply Brief	\$ 4,400.00
11/21/2002	9.6	DJC	LR and continue drafting Reply Brief	\$ 3,840.00
11/22/2002	9.0	WWP	LR and continue drafting Reply Brief	\$ 3,600.00
11/22/2002	13.3	DJC	LR and continue drafting Reply Brief	\$ 5,320.00
11/23/2002	14.1	WWP	LR and continue drafting Reply Brief	\$ 5,640.00
11/23/2002	12.5	DJC	LR and continue drafting Reply Brief	\$ 5,000.00
11/24/2002	10.5	WWP	LR and continue drafting Reply Brief	\$ 4,200.00
11/24/2002	11.9	DJC	LR and continue drafting Reply Brief	\$ 4,760.00
11/25/2002	9.1	WWP	LR and continue drafting Reply Brief	\$ 3,640.00
11/25/2002	8.6	DJC	LR and continue drafting Reply Brief	\$ 3,440.00
11/26/2002	11.1	WWP	LR and continue drafting Reply Brief	\$ 4,440.00
11/26/2002	9.1	DJC	LR and continue drafting Reply Brief	\$ 3,640.00
11/27/2002	3.5	WWP	LR and continue drafting Reply Brief	\$ 1,400.00
11/28/2002	7.5	DJC	LR and continue drafting Reply Brief	\$ 3,000.00

Date	Hours	Attorney	Description	Amount
11/28/2002	14.1	WWP	LR and continue drafting Reply Brief	\$ 5,640.00
11/29/2002	10.5	DJC	LR and continue drafting Reply Brief	\$ 4,200.00
11/29/2002	13.5	WWP	LR and continue drafting Reply Brief	\$ 5,400.00
11/30/2002	13.5	DJC	LR and continue drafting Reply Brief	\$ 5,400.00
11/30/2002	3.0	WWP	LR and continue drafting Reply Brief	\$ 1,200.00
12/2/2002	5.0	DJC	LR and continue drafting Reply Brief	\$ 2,000.00
12/2/2002	10.0	WWP	LR and continue drafting Reply Brief	\$ 4,000.00
12/3/2002	13.0	DJC	LR and continue drafting Reply Brief	\$ 5,200.00
12/3/2002	7.9	WWP	LR and continue drafting Reply Brief	\$ 3,160.00
12/4/2002	8.6	DJC	LR and continue drafting Reply Brief	\$ 3,440.00
12/4/2002	9.5	WWP	LR and continue drafting Reply Brief	\$ 3,800.00
12/5/2002	7.9	DJC	LR and continue drafting Reply Brief	\$ 3,160.00
12/5/2002	10.0	WWP	LR and continue drafting Reply Brief	\$ 4,000.00
12/6/2002	10.0	DJC	LR and continue drafting Reply Brief	\$ 4,000.00
12/6/2002	8.5	WWP	LR and continue drafting Reply Brief	\$ 3,400.00
12/7/2002	10.0	DJC	LR and continue drafting Reply Brief	\$ 4,000.00
12/7/2002	11.1	WWP	LR and continue drafting Reply Brief	\$ 4,440.00
12/8/2002	11.0	DJC	Work on tables, pagination, formatting, finalizing brief.	\$ 4,400.00
12/8/2002	9.6	WWP	Edit final draft of brief; prepare for filing	\$ 3,840.00
12/9/2002	9.0	DJC	Finalize brief.	\$ 3,600.00
12/9/2002	13.3	WWP	Finalize brief; copy, file and serve opening brief and supporting documents	\$ 5,320.00
12/10/2002	2.5	DJC	Filing and organization; review order from court regarding oversized reply brief; LR motion to exceed page limits.	\$ 1,000.00
12/10/2002	1.5	WWP	Organize files; conference with co-counsel.	\$ 600.00
12/11/2002	1.0	DJC	TCW co-counsel regarding motion to exceed pages	\$ 400.00
12/11/2002	1.5	WWP	TCW co-counsel regarding motion to exceed pages	\$ 600.00
12/12/2002	2.0	DJC	LR and begin drafting motion to exceed pages.	\$ 800.00
12/13/2002	0.5	DJC	Continue drafting motion to exceed pages.	\$ 200.00
12/16/2002	2.5	DJC	Continue drafting motion to exceed pages, declaration, proposed order.	\$ 1,000.00
12/20/2002	1.0	DJC	Complete draft of motion to exceed pages; conference with co-counsel	\$ 400.00
12/20/2002	3.5	WWP	Review and edit motion to exceed pages.	\$ 1,400.00

Date	Hours	Attorney	Description	Amount
12/30/2002	1.0	DJC	Finalize motion to exceed pages and supporting documents.	\$ 400.00
12/31/2002	2.5	WWP	Finalize, copy and file motion to exceed pages and supporting papers.	\$ 1,000.00
12/31/2002	1.3	DJC	Finalize motion to exceed pages and supporting papers.	\$ 520.00
1/18/2003	0.5	WWP	TCW Court Clerk regarding status	\$ 200.00
1/22/2003	8.6	WWP	LR and edit Reply Brief; Order from Court regarding Motion for Leave to File	\$ 3,440.00
1/22/2003	3.5	DJC	Review court's order requiring revised Reply Brief; review Reply Brief	\$ 1,400.00
1/23/2003	2.0	WWP	Conference with co-counsel; Emails regarding same	\$ 800.00
1/23/2003	5.8	DJC	Edit Reply Brief; additional LR.	\$ 2,320.00
1/24/2003	5.6	WWP	LR and edit Reply Brief	\$ 2,240.00
1/24/2003	4.8	DJC	Legal research and edit Reply Brief	\$ 1,920.00
1/25/2003	9.1	DJC	LR and edit Reply Brief	\$ 3,640.00
1/27/2003	3.7	WWP	LR and edit Reply Brief	\$ 1,480.00
1/27/2003	5.0	DJC	LR and edit Reply Brief	\$ 2,000.00
1/28/2003	6.1	WWP	LR and edit Reply Brief	\$ 2,440.00
1/28/2003	6.0	DJC	LR and edit Reply Brief	\$ 2,400.00
1/29/2003	5.1	WWP	LR and edit Reply Brief	\$ 2,040.00
1/30/2003	3.8	WWP	LR and edit Reply Brief	\$ 1,520.00
1/30/2003	4.5	DJC	LR and edit Reply Brief	\$ 1,800.00
2/3/2003	1.0	WWP	LR and edit Reply Brief	\$ 400.00
2/3/2003	4.0	DJC	LR and edit Reply Brief	\$ 1,600.00
2/4/2003	2.5	WWP	LR and edit Reply Brief	\$ 1,000.00
2/5/2003	6.0	WWP	LR and edit Reply Brief	\$ 2,400.00
2/5/2003	5.3	DJC	LR and edit Reply Brief	\$ 2,120.00
2/6/2003	4.7	WWP	LR and edit Reply Brief	\$ 1,880.00
2/6/2003	4.5	DJC	LR and edit Reply Brief	\$ 1,800.00
2/7/2003	1.0	WWP	LR and edit Reply Brief	\$ 400.00
2/7/2003	3.3	DJC	LR and edit Reply Brief	\$ 1,320.00
2/10/2003	8.0	WWP	LR and edit Reply Brief	\$ 3,200.00
2/10/2003	11.5	DJC	LR and edit Reply Brief	\$ 4,600.00
2/11/2003	6.0	WWP	Final edits to revised Reply Brief.	\$ 2,400.00
2/11/2003	9.2	DJC	Prepare tables, proof of service; finalize revised Reply Brief.	\$ 3,680.00

Date	Hours	Attorney	Description	Amount
2/12/2003	4.0	DJC	Finalize revised Reply Brief; TCW attorney WWP	\$ 1,600.00
2/12/2003	2.3	WWP	Finalize revised Reply Brief; TCW attorney Daniel Culhane regarding same	\$ 920.00
2/13/2003	4.1	DJC	LR and edit Reply Brief	\$ 1,640.00
2/13/2003	6.5	WWP	Copy, serve and file revised Reply Brief in accordance with court's order.	\$ 2,600.00
2/14/2003	2.0	DJC	Organize files; conference with co-counsel.	\$ 800.00
2/14/2003	3.5	WWP	Organize files; conference with associate attorney.	\$ 1,400.00
2/19/2003	0.3	DJC	TCW co-counsel regarding follow up	\$ 120.00
2/19/2003	0.3	WWP	TCW associate regarding status	\$ 120.00
2/21/2003	0.8	DJC	TCW co-counsel regarding status and update	\$ 320.00
2/21/2003	0.8	WWP	TCW associate attorney regarding status and update	\$ 320.00
4/8/2003	1.0	WWP	Prepare letter to associate regarding update, fax same; Prepare letter to client forwarding the Opposition and the Reply briefs	\$ 400.00
4/9/2003	0.8	WWP	TCW attorney Brian Bodyston regarding status	\$ 320.00
6/10/2003	0.2	DJC	TCW co-counsel regarding status and update	\$ 80.00
6/10/2003	0.3	WWP	TCW associates regarding update	\$ 120.00
7/24/2003	0.7	WWP	Prepare letter to clients regarding status of the case and update	\$ 280.00
8/12/2003	0.2	DJC	LF co-counsel regarding status	\$ 80.00
8/12/2003	0.4	WWP	Letter to associates regarding update	\$ 160.00
8/15/2003	2.1	WWP	Notice from the court regarding upcoming hearing; LT associate attorney and TCW other associates regarding same; Prepare Acknowledgement of hearing Notice and forward same to the Court and opposing counsel	\$ 840.00
8/15/2003	1.5	DJC	LF and TCW co-counsel regarding status	\$ 600.00
8/18/2003	0.4	WWP	Acknowledgement of Hearing from attorney Robin Johansen	\$ 160.00
8/19/2003	0.4	WWP	Letter from associate attorneys regarding status	\$ 160.00
9/30/2003	1.5	WWP	Meeting with attorneys James Harrison and Brian Boydston	\$ 600.00
10/6/2003	4.5	DJC	Review briefs; begin preparation of outline for oral argument.	\$ 1,800.00
10/6/2003	6.0	WWP	Conference with co-counsel regarding oral argument.	\$ 2,400.00

Date	Hours	Attorney	Description	Amount
10/7/2003	8.5	DJC	Review authorities, filed briefs; continue preparation for oral argument	\$ 3,400.00
10/7/2003	8.5	WWP	Review authorities, filed briefs; continue preparation for oral argument	\$ 3,400.00
10/8/2003	6.5	DJC	Conference with co-counsel; revise outline.	\$ 2,600.00
10/8/2003	7.0	WWP	Review and revise outline; conference with co-counsel.	\$ 2,800.00
10/9/2003	13.5	WWP	Prepare for hearing; Travel to San Francisco to attend hearing before the 9 th Circuit Court of Appeals	\$ 5,400.00
10/10/2003	7.5	WWP	Prepare for and attend oral argument before the 9 th Circuit Court of Appeal	\$ 3,000.00
10/11/2003	1.5	DJC	Conference with co-counsel regarding oral argument.	\$ 600.00
10/11/2003	1.5	WWP	Conference with co-counsel regarding oral argument.	\$ 600.00
10/21/2003	0.6	WWP	Prepare LT clients regarding update on the past hearing before the 9 th Circuit Court of Appeal	\$ 240.00
10/22/2003	0.5	WWP	TCW co-counsel regarding status.	\$ 200.00
10/22/2003	0.5	DJC	TCW co-counsel regarding status.	\$ 200.00
10/24/2003	0.2	WWP	TCW attorney Brian Boydston	\$ 80.00
10/27/2003	3.1	WWP	TCW attorney Brian Bodyston regarding status; LR regarding same	\$ 1,240.00
10/31/2003	1.2	WWP	Review Order from court regarding motion to substitute parties	\$ 480.00
11/3/2003	1.3	WWP	Emails from and to co-counsel regarding settlement conference, legal research and update	\$ 520.00
11/3/2003	2.5	WWP	Review order from court requiring supplemental briefing; TCW co-counsel	\$ 1,000.00
11/3/2003	2.5	DJC	Review order from court requiring supplemental briefing; TCW co-counsel	\$ 1,000.00
11/4/2003	3.5	DJC	LR effect of state sovereign immunity on Takings Clause claim.	\$ 1,400.00
11/4/2003	6.5	WWP	LR substitution of state official following election	\$ 2,600.00
11/5/2003	8.0	DJC	LR and draft Supplemental Brief, Motion to Substitute Parties.	\$ 3,200.00
11/5/2003	9.2	WWP	LR and draft Supplemental Brief, Motion to Substitute Parties.	\$ 3,680.00

Date	Hours	Attorney	Description	Amount
11/6/2003	9.5	DJC	LR and draft Supplemental Brief, Motion to Substitute Parties.	\$ 3,800.00
11/6/2003	7.8	WWP	LR and draft Supplemental Brief, Motion to Substitute Parties.	\$ 3,120.00
11/7/2003	11.1	DJC	LR and draft Supplemental Brief, Motion to Substitute Parties.	\$ 4,440.00
11/7/2003	5.6	WWP	LR and draft Supplemental Brief, Motion to Substitute Parties.	\$ 2,240.00
11/8/2003	4.5	DJC	LR and draft Supplemental Brief, Motion to Substitute Parties.	\$ 1,800.00
11/9/2003	2.5	WWP	LR and draft Supplemental Brief, Motion to Substitute Parties.	\$ 1,000.00
11/10/2003	9.5	DJC	LR and draft Supplemental Brief, Motion to Substitute Parties.	\$ 3,800.00
11/10/2003	6.3	WWP	LR and draft Supplemental Brief, Motion to Substitute Parties.	\$ 2,520.00
11/11/2003	8.0	DJC	LR and draft Supplemental Brief, Motion to Substitute Parties.	\$ 3,200.00
11/11/2003	4.9	WWP	LR and draft Supplemental Brief, Motion to Substitute Parties.	\$ 1,960.00
11/12/2003	9.0	DJC	LR and draft Supplemental Brief, Motion to Substitute Parties.	\$ 3,600.00
11/12/2003	6.6	WWP	LR and draft Supplemental Brief, Motion to Substitute Parties.	\$ 2,640.00
11/13/2003	9.1	DJC	LR and draft Supplemental Brief, Motion to Substitute Parties.	\$ 3,640.00
11/13/2003	7.3	WWP	LR and draft Supplemental Brief, Motion to Substitute Parties.	\$ 2,920.00
11/14/2003	8.6	DJC	LR and draft Supplemental Brief, Motion to Substitute Parties.	\$ 3,440.00
11/14/2003	5.9	WWP	LR and draft Supplemental Brief, Motion to Substitute Parties.	\$ 2,360.00
11/15/2003	4.8	DJC	LR and draft Supplemental Brief, Motion to Substitute Parties.	\$ 1,920.00
11/15/2003	5.1	WWP	LR and draft Supplemental Brief, Motion to Substitute Parties.	\$ 2,040.00
11/16/2003	4.0	DJC	LR and draft Supplemental Brief, Motion to Substitute Parties.	\$ 1,600.00
11/17/2003	5.6	WWP	LR and draft Supplemental Brief, Motion to Substitute Parties.	\$ 2,240.00
11/17/2003	7.3	DJC	LR and draft Supplemental Brief, Motion to Substitute Parties.	\$ 2,920.00

Date	Hours	Attorney	Description	Amount
11/18/2003	9.1	WWP	LR and draft Supplemental Brief, Motion to Substitute Parties.	\$ 3,640.00
11/18/2003	8.6	DJC	LR and draft Supplemental Brief, Motion to Substitute Parties.	\$ 3,440.00
11/19/2003	9.1	WWP	LR and draft Supplemental Brief, Motion to Substitute Parties.	\$ 3,640.00
11/19/2003	6.7	DJC	Finalize and format Supplemental Brief, Motion to Substitute Parties, supporting papers.	\$ 2,680.00
11/20/2003	8.6	WWP	Finalize and file Supplemental Brief and Motion to Substitute Parties; Review Appellee's Supplemental Brief	\$ 3,440.00
11/20/2003	5.0	DJC	Finalize and file Supplemental Brief and Motion to Substitute Parties.	\$ 2,000.00
12/2/2003	3.5	WWP	Receive letter regarding substitution of parties; LR re same; TCW attorney Brian Boydston regarding same	\$ 1,400.00
12/2/2003	1.5	DJC	TCW co-counsel; review letter.	\$ 600.00
12/3/2003	4.5	DJC	Receive and review opposition to motion to substitute counsel; LR re same; begin drafting Reply.	\$ 1,800.00
12/3/2003	8.7	WWP	Receive and review opposition to motion to substitute counsel; LR re same; begin drafting Reply, Motion to Strike; Telephone conference with attorneys Brian Boydston, James Harrison, Robin Johansen and others	\$ 3,480.00
12/4/2003	5.6	DJC	Draft Reply to Motion to Substitute Parties; begin drafting Motion to Strike	\$ 2,240.00
12/4/2003	9.1	WWP	Draft Reply to Motion to Substitute Parties, Motion to Strike; TCW attorney Brian Boydston regarding same	\$ 3,640.00
12/5/2003	5.6	DJC	Draft Reply to Motion to Substitute Parties, Motion to Strike.	\$ 2,240.00
12/5/2003	8.7	WWP	Draft Reply to Motion to Substitute Parties, Motion to Strike.	\$ 3,480.00
12/6/2003	3.5	DJC	Draft Reply to Motion to Substitute Parties, Motion to Strike.	\$ 1,400.00
12/6/2003	4.8	WWP	Draft Reply to Motion to Substitute Parties, Motion to Strike.	\$ 1,920.00
12/8/2003	9.1	DJC	Draft Reply to Motion to Substitute Parties, Motion to Strike.	\$ 3,640.00
12/8/2003	8.0	WWP	Draft Reply to Motion to Substitute Parties,	\$ 3,200.00

Date	Hours	Attorney	Description	Amount
			Motion to Strike.	
12/9/2003	9.0	DJC	Draft Reply to Motion to Substitute Parties, Motion to Strike.	\$ 3,600.00
12/9/2003	10.5	WWP	Draft Reply to Motion to Substitute Parties, Motion to Strike.	\$ 4,200.00
12/10/2003	9.1	DJC	Draft Reply to Motion to Substitute Parties, Motion to Strike.	\$ 3,640.00
12/10/2003	5.0	WWP	Draft Reply to Motion to Substitute Parties, Motion to Strike.	\$ 2,000.00
12/11/2003	9.3	DJC	Draft Reply to Motion to Substitute Parties, Motion to Strike.	\$ 3,720.00
12/11/2003	9.1	WWP	Finalize Reply to Motion to Substitute Parties.	\$ 3,640.00
12/12/2003	9.1	WWP	File Reply Motion to Substitute Parties.	\$ 3,640.00
12/12/2003	6.8	DJC	Finalize Reply; continue work on Motion to Strike and for Judicial Notice.	\$ 2,720.00
12/15/2003	8.6	WWP	Finalize Reply; continue work on Motion to Strike and for Judicial Notice.	\$ 3,440.00
12/15/2003	9.1	DJC	Draft Motion to Strike and Judicial Notice.	\$ 3,640.00
12/16/2003	6.7	WWP	Letter to Court correcting footnote in Reply; Motion to Strike.	\$ 2,680.00
12/16/2003	8.8	DJC	Draft Motion to Strike and Judicial Notice; conference with co-counsel.	\$ 3,520.00
12/17/2003	1.0	WWP	TCW associate attorney.	\$ 400.00
12/17/2003	1.0	DJC	TCW co-counsel.	\$ 400.00
12/24/2003	0.3	WWP	TCW associate attorney discussed status	\$ 120.00
12/30/2003	0.8	WWP	TCW regarding update.	\$ 320.00
12/30/2003	0.7	DJC	TCW co-counsel.	\$ 280.00
12/31/2003	0.3	WWP	TCW associate attorney follow up.	\$ 120.00
12/31/2003	0.5	DJC	TCW co-counsel regarding status.	\$ 200.00
1/6/2004	0.5	WWP	TCW co-counsel	\$ 200.00
1/20/2004	1.0	WWP	TCW associate attorney discussed status and possible next steps.	\$ 400.00
1/20/2004	1.0	DJC	TCW co-counsel discussed status	\$ 400.00
1/29/2004	0.7	WWP	TCW associate attorney discussed possible next steps	\$ 280.00
1/29/2004	0.7	DJC	TCW co-counsel follow up	\$ 280.00
1/30/2004	0.5	WWP	TCW associate attorney, discussed status.	\$ 200.00
1/30/2004	0.5	DJC	TCW co-counsel attorney regarding status and update	\$ 200.00

Date	Hours	Attorney	Description	Amount
2/3/2004	0.3	DJC	TCW co-counsel regarding update	\$ 120.00
2/3/2004	0.3	WWP	TCW associate attorney regarding status	\$ 120.00
2/4/2004	1.2	WWP	TCW associate attorney regarding update	\$ 480.00
2/4/2004	1.2	DJC	TCW co-counsel.	\$ 480.00
2/6/2004	1.3	WWP	TCW associate attorney regarding status and update	\$ 520.00
2/10/2004	0.3	DJC	TCW co-counsel	\$ 120.00
2/10/2004	0.3	WWP	TCW co-counsel	\$ 120.00
2/12/2004	0.2	WWP	TCW co-counsel	\$ 80.00
2/17/2004	0.3	WWP	TCW co-counsel	\$ 120.00
2/23/2004	0.6	WWP	TCW co-counsel	\$ 240.00
2/24/2004	0.7	WWP	TCW co-counsel	\$ 280.00
2/26/2004	1.5	WWP	TCW co-counsel.	\$ 600.00
2/26/2004	1.5	DJC	TCW co-counsel.	\$ 600.00
3/6/2004	0.2	WWP	TCW co-counsel.	\$ 80.00
3/6/2004	0.2	DJC	TCW co-counsel.	\$ 80.00
3/9/2004	0.1	WWP	Correspondence to co-counsel	\$ 40.00
3/10/2004	0.1	WWP	Correspondence to co-counsel	\$ 40.00
3/11/2004	0.2	WWP	TCW co-counsel	\$ 80.00
3/16/2004	0.5	WWP	TCW co-counsel	\$ 200.00
3/17/2004	1.5	WWP	TCW co-counsel.	\$ 600.00
3/17/2004	1.5	DJC	TCW co-counsel.	\$ 600.00
3/24/2004	0.1	WWP	TCW co-counsel	\$ 40.00
4/30/2004	1.0	WWP	TCW co-counsel.	\$ 400.00
4/30/2004	1.0	DJC	TCW co-counsel.	\$ 400.00
5/1/2004	0.2	WWP	TCW co-counsel.	\$ 80.00
5/1/2004	0.2	DJC	TCW co-counsel.	\$ 80.00
5/5/2004	0.3	WWP	TCW co-counsel.	\$ 120.00
5/5/2004	0.3	DJC	TCW co-counsel.	\$ 120.00
5/13/2004	1.0	WWP	TCW co-counsel.	\$ 400.00
5/13/2004	1.0	DJC	TCW co-counsel.	\$ 400.00
7/1/2004	0.5	WWP	TCW co-counsel.	\$ 200.00
7/1/2004	0.5	DJC	TCW co-counsel.	\$ 200.00
7/7/2004	1.0	WWP	TCW co-counsel.	\$ 400.00
7/7/2004	1.2	DJC	TCW co-counsel.	\$ 480.00
7/14/2004	0.5	WWP	TCW co-counsel.	\$ 200.00
7/19/2004	0.3	WWP	TCW co-counsel	\$ 120.00

Date	Hours	Attorney	Description	Amount
7/20/2004	0.6	WWP	TCW co-counsel	\$ 240.00
7/23/2004	1.0	WWP	TCW co-counsel, email from co-counsel.	\$ 400.00
7/27/2004	1.3	WWP	Prepare subpoena forward to co-counsel; TCW co-counsel regarding same	\$ 520.00
7/29/2004	3.8	WWP	TCW and emails from and to co-counsel, review documents.	\$ 1,520.00
7/29/2007	3.8	DJC	Emails to and from and TCW co-counsel WWP regarding status	\$ 1,520.00
7/30/2004	2.3	WWP	TCW co-counsel, review documents.	\$ 920.00
7/30/2004	2.3	DJC	Review documents and file; TCW co-counsel WWP	\$ 920.00
8/3/2004	0.4	WWP	TCW co-counsel.	\$ 160.00
8/3/2004	0.4	DJC	TCW co-counsel WWP discussed update and status	\$ 160.00
8/9/2004	1.5	WWP	TCW associate attorney DJC regarding update.	\$ 600.00
8/9/2004	1.5	DJC	TCW co-counsel.	\$ 600.00
8/23/2004	0.7	WWP	TCW DJC discussed update and status.	\$ 280.00
8/23/2004	0.7	DJC	TCW co-counsel.	\$ 280.00
8/24/2004	1.5	WWP	TCW co-counsel; review and revise motion for judicial notice and to strike	\$ 600.00
8/24/2004	4.8	DJC	TCW co-counsel; review and revise motion for judicial notice and to strike	\$ 1,920.00
8/25/2004	5.5	WWP	Revise motion for judicial notice and to strike, draft declaration in support of same.	\$ 2,200.00
8/25/2004	7.0	DJC	Begin LR and draft Motion for judicial notice.	\$ 2,800.00
8/26/2004	8.1	WWP	Continue legal research and drafting the Motion.	\$ 3,240.00
8/26/2004	7.0	DJC	Coordinating with co-counsel and begin drafting supporting documents for the Motion for Judicial Notice.	\$ 2,800.00
8/27/2004	3.5	WWP	Continue drafting Motion for judicial notice and supporting declarations.	\$ 1,400.00
8/27/2004	4.8	DJC	Draft Motion for judicial notice and supporting documents.	\$ 1,920.00
8/30/2004	8.5	WWP	Draft Motion for judicial notice and supporting documents.	\$ 3,400.00
8/30/2004	7.5	DJC	Draft Motion for judicial notice and supporting documents.	\$ 3,000.00
8/31/2004	4.5	WWP	Draft Motion for judicial notice and supporting documents.	\$ 1,800.00

Date	Hours	Attorney	Description	Amount
8/31/2004	9.0	DJC	Draft Motion for judicial notice and supporting documents.	\$ 3,600.00
9/1/2004	10.3	WWP	Draft Motion for judicial notice and supporting documents.	\$ 4,120.00
9/1/2004	7.6	DJC	Draft Motion for judicial notice and supporting documents.	\$ 3,040.00
9/2/2004	7.5	WWP	Draft Motion for judicial notice and supporting documents.	\$ 3,000.00
9/2/2004	7.0	DJC	Draft Motion for judicial notice and supporting documents.	\$ 2,800.00
9/3/2004	4.5	WWP	Draft Motion for judicial notice and supporting documents.	\$ 1,800.00
9/3/2004	6.5	DJC	Draft Motion for judicial notice and supporting documents.	\$ 2,600.00
9/4/2004	4.0	WWP	Draft Motion for judicial notice and supporting documents.	\$ 1,600.00
9/4/2004	2.3	DJC	Draft Motion for judicial notice and supporting documents.	\$ 920.00
9/6/2004	4.5	WWP	Draft Motion for judicial notice and supporting documents.	\$ 1,800.00
9/6/2004	7.0	DJC	Draft Motion for judicial notice and supporting documents.	\$ 2,800.00
9/7/2004	7.5	WWP	Draft Motion for judicial notice and supporting documents.	\$ 3,000.00
9/7/2004	7.3	DJC	Draft Motion for judicial notice and supporting documents.	\$ 2,920.00
9/8/2004	8.0	WWP	Finalize and file Motion for Judicial Notice and supporting documents.	\$ 3,200.00
9/8/2004	4.0	DJC	Finalize filing.	\$ 1,600.00
9/9/2004	1.0	WWP	Conference with co-counsel.	\$ 400.00
9/9/2004	2.5	DJC	Conference with co-counsel; organize files.	\$ 1,000.00
9/13/2004	0.8	DJC	Prepare corrected proof of service.	\$ 320.00
9/13/2004	1.5	WWP	File corrected proof of service.	\$ 600.00
9/21/2004	3.5	DJC	Review Opposition to Motion to Strike; begin drafting Reply.	\$ 1,400.00
9/21/2004	6.0	WWP	Review Opposition to Motion to Strike; begin drafting Reply.	\$ 2,400.00
9/22/2004	6.0	WWP	Draft Reply to Motion to Strike.	\$ 2,400.00
9/22/2004	8.1	DJC	Draft Reply to Motion to Strike.	\$ 3,240.00
9/23/2004	6.0	WWP	Draft Reply to Motion to Strike.	\$ 2,400.00

Date	Hours	Attorney	Description	Amount
9/23/2004	8.1	DJC	Draft Reply to Motion to Strike.	\$ 3,240.00
9/24/2004	6.5	WWP	Draft Reply to Motion to Strike; TCW co-counsel.	\$ 2,600.00
9/24/2004	5.0	DJC	Draft Reply to Motion to Strike.	\$ 2,000.00
9/25/2004	4.5	WWP	Draft Reply to Motion to Strike.	\$ 1,800.00
9/25/2004	8.0	DJC	Draft Reply to Motion to Strike.	\$ 3,200.00
9/26/2004	2.1	DJC	Draft Reply to Motion to Strike.	\$ 840.00
9/27/2004	6.0	WWP	Finalize and file Reply to Motion to Strike.	\$ 2,400.00
9/27/2004	3.5	DJC	Finalize and assist with filing.	\$ 1,400.00
9/29/2004	1.0	WWP	TCW associate attorney.	\$ 400.00
9/29/2004	1.0	DJC	TCW co-counsel.	\$ 400.00
9/30/2004	1.3	WWP	TCW associate attorney DJC.	\$ 520.00
9/30/2004	1.3	DJC	TCW co-counsel regarding status and update	\$ 520.00
10/7/2004	1.0	WWP	TCW attorney Daniel Culhane regarding status.	\$ 400.00
10/7/2004	1.0	DJC	TCW co-counsel discussed status	\$ 400.00
10/11/2004	0.8	WWP	TCW associate attorney regarding update	\$ 320.00
10/11/2004	0.8	DJC	TCW co-counsel discussed update	\$ 320.00
10/12/2004	0.8	WWP	TCW regarding update.	\$ 320.00
10/12/2004	0.7	DJC	TCW co-counsel.	\$ 280.00
10/13/2004	0.3	WWP	TCW associate attorney follow up.	\$ 120.00
10/13/2004	0.5	DJC	TCW co-counsel regarding status.	\$ 200.00
11/2/2004	1.0	WWP	TCW associate attorney discussed status and possible next steps.	\$ 400.00
11/2/2004	1.0	DJC	TCW co-counsel discussed status	\$ 400.00
11/12/2004	0.5	WWP	TCW associate attorney, discussed status.	\$ 200.00
11/12/2004	0.5	DJC	TCW co-counsel attorney regarding status and update	\$ 200.00
11/17/2004	1.2	WWP	TCW associate attorney regarding update	\$ 480.00
11/17/2004	1.2	DJC	TCW co-counsel.	\$ 480.00
12/9/2004	1.5	WWP	TCW co-counsel.	\$ 600.00
12/9/2004	1.5	DJC	TCW co-counsel.	\$ 600.00
12/18/2004	0.2	WWP	TCW co-counsel.	\$ 80.00
12/18/2004	0.2	DJC	TCW co-counsel.	\$ 80.00
12/29/2004	1.5	WWP	TCW co-counsel.	\$ 600.00
12/29/2004	1.5	DJC	TCW co-counsel.	\$ 600.00
2/11/2005	1.0	WWP	TCW co-counsel.	\$ 400.00
2/11/2005	1.0	DJC	TCW co-counsel.	\$ 400.00

Date	Hours	Attorney	Description	Amount
2/12/2005	0.2	WWP	TCW co-counsel.	\$ 80.00
2/12/2005	0.2	DJC	TCW co-counsel.	\$ 80.00
2/16/2005	0.3	WWP	TCW co-counsel.	\$ 120.00
2/16/2005	0.3	DJC	TCW co-counsel.	\$ 120.00
2/24/2005	1.0	WWP	TCW co-counsel.	\$ 400.00
2/24/2005	1.0	DJC	TCW co-counsel.	\$ 400.00
3/24/2005	1.7	WWP	Review Court's Order denying Motion to Strike; TCW co-counsel	\$ 680.00
3/24/2005	1.0	DJC	Review Court's Order denying Motion to Strike; TCW co-counsel	\$ 400.00
3/28/2005	0.4	WWP	LT clients regarding update; Review Order denying Motion to Strike	
3/29/2005	6.5	WWP	Review Court's Opinion; TCW co-counsel; strategy and planning; Email from attorney Daniel Culhane; Review Taylor Opinion; TT, TF associates regarding update	\$ 2,600.00
3/29/2005	7.0	DJC	Review Court's Opinion; TCW co-counsel; strategy and planning.	\$ 2,800.00
3/30/2005	4.5	WWP	Multiple emails to and from associates regarding published decision; Prepare bill of costs.	\$ 1,800.00
3/30/2005	1.5	DJC	Review rules regarding costs; multiple emails with co-counsel.	\$ 600.00
3/31/2005	3.6	WWP	Letter to clients regarding update and forwarding published decision; Multiple telephone calls to media and others;	\$ 1,440.00
3/31/2005	2.1	DJC	Legal research.	\$ 840.00
4/1/2005	4.5	WWP	Telephone calls to colleagues and others; LF associates; forward same to attorney Daniel Culhane	\$ 1,800.00
4/1/2005	3.5	DJC	Legal research.	\$ 1,400.00
4/4/2005	3.1	WWP	Telephone calls to colleagues and others regarding Ninth Circuit victory; Emails from and to associates; Review local rules and prepare Bill of Costs	\$ 1,240.00
4/5/2005	4.5	WWP	Telephone calls to colleagues and others regarding Ninth Circuit victory; Review Order awarding cost; Emails from associates	\$ 1,800.00
4/6/2005	2.3	DJC	Review motion to extend time to petition for rehearing; LR re same.	\$ 920.00

Date	Hours	Attorney	Description	Amount
4/6/2005	5.0	WWP	Review motion to extend time to petition for rehearing; communications with various persons; LF and TCW opposing counsel Robin Johansen; Emails from associates; Motion for Extension of Time	\$ 2,000.00
4/7/2005	9.8	DJC	LR Emergency Motion for Preliminary Injunction before Court of Appeals; LF attorney regarding several outstanding issues	\$ 3,920.00
4/7/2005	8.7	WWP	LR Preliminary Injunctions; Prepare motion to Expedite, arraige for filing and service.	\$ 3,480.00
4/8/2005	10.1	DJC	LR and Draft Motion for TRO/Preliminary Injunction.	\$ 4,040.00
4/8/2005	13.0	WWP	LR and Draft Motion for TRO/Preliminary Injunction.	\$ 5,200.00
4/9/2005	10.1	DJC	LR and Draft Motion for TRO/Preliminary Injunction.	\$ 4,040.00
4/9/2005	8.7	WWP	LR and Draft Motion for TRO/Preliminary Injunction.	\$ 3,480.00
4/10/2005	14.0	DJC	LR and Draft Motion for TRO/Preliminary Injunction.	\$ 5,600.00
4/10/2005	12.0	WWP	LR and Draft Motion for TRO/Preliminary Injunction; Emails from and to associate attorney Daniel Culhane regarding status; Review Federal Court of Appeals Manual	\$ 4,800.00
4/11/2005	15.0	DJC	LR and Draft Motion for TRO/Preliminary Injunction.	\$ 6,000.00
4/11/2005	11.1	WWP	LR and Draft Motion for TRO/Preliminary Injunction; file Bill of Costs; Email to associates regarding update	\$ 4,440.00
4/12/2005	13.5	DJC	LR and Draft Motion for TRO/Preliminary Injunction.	\$ 5,400.00
4/12/2005	10.9	WWP	LR and Draft Motion for TRO/Preliminary Injunction.	\$ 4,360.00
4/13/2005	5.6	DJC	LR and Draft Motion for TRO/Preliminary Injunction; Multiple TCW opposing counsel Robin Johansen; Lengthy LT Robin Johansen regarding settlement discussions; Fax same; Email from associates regarding update	\$ 2,240.00
4/13/2005	8.7	WWP	Finalize and file Emergency Motion for TRO/Preliminary Injunction.	\$ 3,480.00

Date	Hours	Attorney	Description	Amount
4/14/2005	4.5	WWP	Email to, multiple TCW and LT associates regarding update and forwarding documents; TF opposing counsel Robin Johansen regarding extension; LT clients regarding update	\$ 1,800.00
4/14/2005	1.0	DJC	TCW co-counsel.	\$ 400.00
4/15/2005	1.3	WWP	TCW co-counsel; review motion for extension of time; Emails to and from associates forwarding necessary documents	\$ 520.00
4/15/2005	1.0	DJC	TCW co-counsel; review motion for extension of time.	\$ 400.00
4/16/2005	0.3	WWP	TCW associate attorney follow up.	\$ 120.00
4/16/2005	0.5	DJC	Emails to and from associates regarding status and update	\$ 200.00
4/18/2005	1.0	WWP	TCW associate attorney; TCW Robin Johansen (10:00 a.m.)	\$ 400.00
4/18/2005	1.0	DJC	TCW co-counsel discussed status; TCW Robin Johansen discussed position	\$ 400.00
4/19/2005	1.7	WWP	TCW co-counsel; review petition for rehearing; TCW attorney Robin Johansen (3:00 p.m.); Review Controller's Petition for Rehearing; fax same to associate attorney Daniel Culhane;	\$ 680.00
4/19/2005	3.5	DJC	TCW co-counsel; review petition for rehearing; LR re same	\$ 1,400.00
4/20/2005	1.7	WWP	TReview response to bill of costs; TCW 9th Circuit Mediation Center; Emails regarding update; TCW associate attorney Daniel Culhane regarding status; LT Robin Johansen regarding possible settlement; fax same; Review Controller's Objections to Bill of Costs	\$ 680.00
4/20/2005	0.5	DJC	TCW co-counsel; review response to bill of costs.	\$ 200.00
4/21/2005	1.9	WWP	TCW Sacramento Lobbyist; TCW associate attorney Daniel Culhane and TF Controller's counsel; Emails from attorney Daniel Culhane	\$ 760.00
4/21/2005	1.5	DJC	TCW co-counsel	\$ 600.00
4/22/2005	1.5	WWP	TCW co-counsel; TCW Strategist Jonathan Wilcox, email regarding same; LT clients regarding update and forwarding documents	\$ 600.00
4/22/2005	0.2	DJC	TCW co-counsel	\$ 80.00
4/23/2005	0.3	WWP	TCW associates discussed status	\$ 120.00
4/23/2005	0.3	DJC	TCW co-counsel follow up	\$ 120.00

Date	Hours	Attorney	Description	Amount
4/24/2005	1.0	WWP	Telephone calls to and from attorney Daniel Culhane and other associates regarding update	\$ 400.00
4/25/2005	6.5	WWP	Review opposition to Motion for Preliminary Injunction;TCW Dan Schuns, Mark Bagetich,; TCW Private Investigator; Lengthy email to attorney Daniel Culhane regarding major points of the reply; Begin to prepare a Draft of the Reply to the Opposition	\$ 2,600.00
4/25/2005	6.8	DJC	Review opposition to Motion for Preliminary Injunction; LR re same.	\$ 2,720.00
4/26/2005	7.8	WWP	Review opposition to Motion for Preliminary Injunction and Supporting Documents; LR re same; Fax from Clerk of the U.S. Court of Appeal regarding order regarding Preliminary Injunction	\$ 3,120.00
4/26/2005	8.1	DJC	Review opposition to Motion for Preliminary Injunction; LR re same; review order denying motion for preliminary injunction	\$ 3,240.00
4/27/2005	1.2	WWP	TCW co-counsel; TCW Lew Uhler	\$ 480.00
4/27/2005	0.7	DJC	TCW co-counsel WWP.	\$ 280.00
4/28/2005	1.0	WWP	TCW associate DCJ discussed status.	\$ 400.00
4/28/2005	1.0	DJC	TCW co-counsel regarding status.	\$ 400.00
4/29/2005	6.5	WWP	TCW associate attorney; Travel to and from Meeting with Brian Boydston	\$ 2,600.00
4/29/2005	0.6	DJC	Emails to and from associates regarding status and update	\$ 240.00
4/30/2005	1.3	WWP	TCW co-counsel; Meeting with Brian Boydston	\$ 520.00
4/30/2005	0.3	DJC	TCW co-counsel discussed status; TCW Robin Johansen discussed position	\$ 120.00
5/1/2005	3.5	WWP	Return travel from LA meeting with Brian Boydston	\$ 1,400.00
5/2/2005	0.4	WWP	TCW co-counsel; Email injunction	\$ 160.00
5/2/2005	1.3	DJC	TCW co-counsel; strategy and planning.	\$ 520.00
5/3/2005	0.5	WWP	TCW associate DCJ discussed possible next steps; Email correspondence to and from Mark Tofal and Jonathan Wilcox regarding status update	\$ 200.00
5/3/2005	0.5	DJC	TCW co-counsel WWP.	\$ 200.00

Date	Hours	Attorney	Description	Amount
5/4/2005	1.2	WWP	TCW co-counsel; Emails to Jonathan Wilcox, and author of Unclaimed Property; Emails to and from Mark Tofal regarding update	\$ 480.00
5/4/2005	0.8	DJC	TCW co-counsel	\$ 320.00
5/5/2005	1.0	WWP	TCW co-counsel; TCW Strategist Jonathan Wilcox, email regarding same; LT clients regarding update and forwarding documents	\$ 400.00
5/5/2005	1.0	DJC	TCW co-counsel	\$ 400.00
5/6/2005	0.7	WWP	TCW associate attorney; Travel to and from Meeting with Brian Boydston	\$ 280.00
5/6/2005	0.7	DJC	Emails to and from associates regarding status and update	\$ 280.00
5/7/2005	1.3	WWP	TCW co-counsel; Meeting with Brian Boydston	\$ 520.00
5/7/2005	0.3	DJC	TCW co-counsel discussed status; TCW Robin Johansen discussed position	\$ 120.00
5/8/2005	0.4	WWP	TCW associate attorney regarding update	\$ 160.00
5/8/2005	0.4	DJC	TCW co-counsel regarding status and follow up	\$ 160.00
5/9/2005	0.3	WWP	Email injunction; TCW attorney Daniel Culhane regarding status; discussed action, and further steps	\$ 120.00
5/9/2005	0.3	DJC	TCW co-counsel regarding update and status.	\$ 120.00
5/10/2005	0.6	WWP	TCW associate attorney DJC discussed status possible next steps.	\$ 240.00
5/10/2005	0.6	DJC	TCW co-counsel regarding update and status.	\$ 240.00
5/11/2005	1.3	WWP	TCW co-counsel; Emails to Jonathan Wilcox, and author of Unclaimed Property; Emails to and from Mark Tofal regarding update	\$ 520.00
5/11/2005	1.3	DJC	TCW co-counsel	\$ 520.00
5/12/2005	2.0	WWP	TCW co-counsel; Travel to and from and Meeting with Consultant/Lew Uherl	\$ 800.00
5/12/2005	1.0	DJC	TCW co-counsel regarding update and status.	\$ 400.00
5/13/2005	1.7	WWP	Review Ninth Circuit Order denying rehearing; planning; TCW private investigator	\$ 680.00
5/13/2005	1.2	DJC	Review Ninth Circuit Order denying rehearing; planning.	\$ 480.00
5/16/2005	3.5	WWP	Conference co-counsel; begin drafting motion for TRO; LR re same; TT Bakersfield attorney regarding status;	\$ 1,400.00

Date	Hours	Attorney	Description	Amount
5/16/2005	8.7	DJC	Conference co-counsel; begin drafting motion for TRO; LR re same.	\$ 3,480.00
5/17/2005	9.1	WWP	Draft Motion for TRO in District Court; Legal research regarding same.	\$ 3,640.00
5/17/2005	8.7	DJC	Draft Motion for TRO in District Court; Legal research regarding same.	\$ 3,480.00
5/18/2005	10.5	WWP	Draft Motion for TRO in District Court; Legal research regarding same; LR Rule 41(d); TCW Lew Uhler; TCW Jonathan Wilcox; TCW Steve Swenton discussed status and procedural next steps; Multiple email correspondence to and from attorney Daniel Culhane and Jonathan Wilcox regarding same; Fax to Jonathan regarding Order denying Controller's petitions	\$ 4,200.00
5/18/2005	11.3	DJC	Draft Motion for TRO in District Court; Legal research regarding same; LR Rule 41(d); TCW Lew Uhler; TCW Jonathan Wilcox.	\$ 4,520.00
5/19/2005	5.0	WWP	Draft Motion for TRO in District Court; LR regarding same; TCW associate attorney regarding same	\$ 2,000.00
5/19/2005	9.5	DJC	Draft Motion for TRO in District Court; Legal research regarding same; TCW co-counsel regarding same	\$ 3,800.00
5/20/2005	6.3	WWP	Draft Motion for TRO in District Court; Legal research regarding same.	\$ 2,520.00
5/20/2005	9.1	DJC	Draft Motion for TRO in District Court; Legal research regarding same.	\$ 3,640.00
5/21/2005	6.8	WWP	Draft Motion for TRO in District Court; LR regarding same.	\$ 2,720.00
5/21/2005	8.7	DJC	Draft Motion for TRO in District Court; Legal research regarding same.	\$ 3,480.00
5/22/2005	3.1	WWP	Draft Motion for TRO in District Court; Legal research regarding same.	\$ 1,240.00
5/22/2005	2.5	DJC	Draft Motion for TRO in District Court; Legal research regarding same.	\$ 1,000.00
5/23/2005	11.1	WWP	Draft Motion for TRO in District Court; Legal research regarding same.	\$ 4,440.00
5/23/2005	8.5	DJC	Draft Motion for TRO in District Court; Legal research regarding same.	\$ 3,400.00

Date	Hours	Attorney	Description	Amount
5/24/2005	6.6	WWP	Draft Motion for TRO in District Court; Legal research regarding same; Review Final Judgment and Cost Award and forward same to attorney Daniel Culhane	\$ 2,640.00
5/24/2005	10.0	DJC	Draft Motion for TRO in District Court; Legal research regarding same; Emails to and from attorney Daniel J. Culhane regarding State Auditor's Report; Fourteenth Amendment research ant TCW client discussed same	\$ 4,000.00
5/25/2005	9.8	WWP	Draft Motion for TRO in District Court; Legal research regarding same.	\$ 3,920.00
5/25/2005	10.0	DJC	Draft Motion for TRO in District Court; Legal research regarding same; TCW Steve Swinton and Susan Swinton	\$ 4,000.00
5/26/2005	6.5	WWP	Draft Motion for TRO in District Court; Legal research regarding same.	\$ 2,600.00
5/26/2005	9.5	DJC	Draft Motion for TRO in District Court; Legal research regarding same.	\$ 3,800.00
5/27/2005	9.6	WWP	Draft Motion for TRO in District Court; Legal research regarding same; Review National Tax Limitation Committee's report; Revise same; Correspondence and emails regarding same	\$ 3,840.00
5/27/2005	8.5	DJC	Draft Motion for TRO in District Court; Legal research regarding same.	\$ 3,400.00
5/28/2005	6.5	WWP	Draft Motion for TRO in District Court; Legal research regarding same.	\$ 2,600.00
5/28/2005	5.0	DJC	Draft Motion for TRO in District Court; Legal research regarding same.	\$ 2,000.00
5/29/2005	2.5	WWP	Draft Motion for TRO in District Court; Legal research regarding same.	\$ 1,000.00
5/29/2005	1.7	DJC	Draft Motion for TRO in District Court; Legal research regarding same.	\$ 680.00
5/30/2005	9.2	WWP	Draft Motion for TRO in District Court; Legal research regarding same.	\$ 3,680.00
5/30/2005	13.0	DJC	Draft Motion for TRO; LR re same; work on declaration supporting TRO, related documents.	\$ 5,200.00

Date	Hours	Attorney	Description	Amount
5/31/2005	11.5	WWP	Draft Motion for TRO; LR re same; work on declaration supporting TRO, related documents;Continue working on the Temporary Restraining Order and accompanying declarations; Emails to and from Dan Culhane regarding same; TCW Steve Swinton; TCW cp-counsel; TCW Financial/Consultant	\$ 4,600.00
5/31/2005	12.5	DJC	Draft Motion for TRO; LR re same; work on declaration supporting TRO, related documents; TCW Steve Swinton; TCW cp-counsel; TCW Financial/Consultant	\$ 5,000.00
6/1/2005	10.0	WWP	Draft Motion for TRO; LR re same; work on supporting documents for TRO, related documents; Emails to and from attorney Daniel Culhane and other associates; TCWs Member of Publix inquires regarding case	\$ 4,000.00
6/1/2005	13.5	DJC	Draft Motion for TRO; LR re same; work on declaration supporting TRO, related documents.	\$ 5,400.00
6/2/2005	10.6	WWP	Finalize and file Motion for TRO and supporting documents; prepare for hearing; TCW court clerk; Review minute order from the court; Emails to and from attorney Daniel Culhane and opposing counsel Robin Johansen and other associates; TCW attorney Robin Johansen	\$ 4,240.00
6/2/2005	7.0	DJC	Finalize and file Motion for TRO and supporting documents; prepare for hearing	\$ 2,800.00
6/3/2005	8.5	WWP	Meeting with Counsel; Prepare for hearing; 2:30 Hearing and argue motion before Court; TCW associates regarding status; TCW attorney Daniel Culhane; Review letter from the court; Prepare Declaration pursuant to Local Rule 65-23;	\$ 3,400.00
6/3/2005	6.5	DJC	Prepare outline for hearing.	\$ 2,600.00
6/4/2005	0.3	WWP	Email from the court	\$ 120.00
6/6/2005	8.5	WWP	Planning for Preliminary Injunction Motion; TCW associates regarding status and update; Emails regarding same	\$ 3,400.00
6/6/2005	3.5	DJC	Outline of Preliminary Injunction Motion.	\$ 1,400.00

Date	Hours	Attorney	Description	Amount
6/7/2005	7.2	WWP	Telephone calls with potential clients regarding representation; conference with co-counsel regarding amended complaint; Emails from and to associates; Travel to and from 1:00 meeting with Remcho attorneys, and Attorney General regarding settlement discussions, case handling	\$ 2,880.00
6/7/2005	8.5	DJC	Begin drafting amended complaint; TCW potential clients.	\$ 3,400.00
6/8/2005	10.8	WWP	Research regarding ownership of unclaimed property by Judge Damrell; research ethical issues; TCW clients; draft amended complaint; Travel to and from meeting with Rob Maylor	\$ 4,320.00
6/8/2005	11.3	DJC	Continue drafting amended complaint; TCW clients; draft motion for recusal; LR re same.	\$ 4,520.00
6/9/2005	9.2	WWP	TCW clients; continue drafting amended complaint, motion for recusal; finalize stipulation for extension of time;TCW attorney Robin Johansen; Draft, email and fax letter to associates;	\$ 3,680.00
6/9/2005	6.5	DJC	Continue drafting amended complaint, declarations of clients, motion for recusal, motion for preliminary injunction.	\$ 2,600.00
6/10/2005	9.5	WWP	Review Order, Email Bob; Conference Call with Bakersfield attorney; Continue drafting amended complaint, declarations of clients, motion for recusal, motion for preliminary injunction.	\$ 3,800.00
6/10/2005	9.6	DJC	Continue drafting amended complaint, declarations of clients, motion for recusal, motion for preliminary injunction.	\$ 3,840.00
6/11/2005	6.5	WWP	TCWs attorney DJC; Continue drafting amended complaint, declarations of clients, motion for recusal, motion for preliminary injunction.	\$ 2,600.00
6/11/2005	6.5	DJC	TCWs co-counsel; Continue drafting amended complaint, declarations of clients, motion for recusal, motion for preliminary injunction.	\$ 2,600.00
6/12/2005	5.0	WWP	TCWs co-counsel Daniel Culhane; Continue drafting amended complaint, declarations of clients, motion for recusal, motion for preliminary injunction.	\$ 2,000.00

Date	Hours	Attorney	Description	Amount
6/12/2005	2.5	DJC	TCWs co-counsel; Continue drafting amended complaint, declarations of clients, motion for recusal, motion for preliminary injunction.	\$ 1,000.00
6/13/2005	1.7	WWP	Email from associate; Continue drafting amended complaint, declarations of clients, motion for recusal, motion for preliminary injunction;	\$ 680.00
6/13/2005	9.2	DJC	Continue drafting amended complaint, declarations of clients, motion for recusal, motion for preliminary injunction.	\$ 3,680.00
6/14/2005	12.0	WWP	TCW Gary Kessleman regarding opinion and fax same; Emails to and from multiple TCWs attorney Daniel Culhane and other associates; Forward documents to clients; Continue drafting amended complaint, declarations of clients, motion for recusal, motion for preliminary injunction;	\$ 4,800.00
6/14/2005	11.5	DJC	Continue drafting amended complaint, declarations of clients, motion for recusal, motion for preliminary injunction.	\$ 4,600.00
6/15/2005	12.5	WWP	TCW associate regarding status; Continue drafting amended complaint, declarations of clients, motion for recusal, motion for preliminary injunction; TCW Gary Kessleman	\$ 5,000.00
6/15/2005	10.0	DJC	Continue drafting amended complaint, declarations of clients, motion for recusal, motion for preliminary injunction.	\$ 4,000.00
6/16/2005	13.5	WWP	Continue drafting amended complaint, declarations of clients, motion for recusal, motion for preliminary injunction.	\$ 5,400.00
6/16/2005	10.6	DJC	Review Joint Request for Reassignment the Case arrange for filing; Continue drafting amended complaint, declarations of clients, motion for recusal, motion for preliminary injunction;	\$ 4,240.00
6/17/2005	7.0	WWP	TCW Gary Kessleman; Continue drafting amended complaint, declarations of clients, motion for recusal, motion for preliminary injunction.	\$ 2,800.00
6/17/2005	8.5	DJC	Prepare LT attorney and TCW Robin Johansen; Multiple TCW attorney Daniel Culhane; Continue drafting amended complaint, declarations of clients, motion for recusal, motion	\$ 3,400.00

Date	Hours	Attorney	Description	Amount
for preliminary injunction;				
6/18/2005	10.0	WWP	Continue drafting amended complaint, declarations of clients, motion for recusal, motion for preliminary injunction.	\$ 4,000.00
6/18/2005	13.5	DJC	TCW client regarding status; Emails from attorney Daniel Culhane; Continue drafting amended complaint, declarations of clients, motion for recusal, motion for preliminary injunction;	\$ 5,404.00
6/19/2005	6.0	WWP	TCW client regarding status; Emails from and to attorney Daniel Culhane; Continue drafting amended complaint, declarations of clients, motion for recusal, motion for preliminary injunction.	\$ 2,400.00
6/19/2005	9.0	DJC	Continue drafting amended complaint, declarations of clients, motion for recusal, motion for preliminary injunction.	\$ 3,600.00
6/20/2005	8.5	WWP	Prepare declarations of clients, arrange for original signature; Finalize and file motion for recusal; first amended complaint; memorandum in support of preliminary injunction; TCW client; Review lengthy email from client; Email from and to attorney Robin Johansen; Emails from and to attorney Daniel Culhane;	\$ 3,400.00
6/20/2005	10.8	DJC	Finalize and file motion for recusal; first amended complaint; memorandum in support of preliminary injunction; client declarations.	\$ 4,320.00
6/21/2005	3.5	WWP	Revise and finalize Request for Recusal and Reassignment of the case; Prepare declaration of William W. Palmer in Support, arrange for filing and service; TCW co-counsel; strategy and planning.	\$ 1,400.00
6/21/2005	1.5	DJC	TCW co-counsel; strategy and planning.	\$ 600.00
6/22/2005	2.5	WWP	Emails from and to attorney Daniel Culhane; Prepare Fee Agreement for client; Review order; TCW co-counsel; strategy and planning.	\$ 1,000.00
6/22/2005	1.0	DJC	TCW co-counsel; strategy and planning.	\$ 400.00

Date	Hours	Attorney	Description	Amount
6/23/2005	1.8	WWP	TCW Court and TCW attorney Robin Johansen; Emails from and TCW attorney Daniel Culhane; Review Order Setting StatusReview order reassigning case; Forward documents to clients	\$ 720.00
6/23/2005	3.2	DJC	Review Order reassigning case; TCW and emails to co-counsel.	\$ 1,280.00
6/24/2005	1.0	WWP	TCW co-counsel; strategy and planning.	\$ 400.00
6/24/2005	1.5	DJC	TCW co-counsel; strategy and planning.	\$ 600.00
6/25/2005	0.3	WWP	Emails to and from attorney Robin Johansen	\$ 120.00
6/27/2005	2.5	WWP	Multiple Emails to and from attorney Daniel Culhane and other associates; TCW R. Johansen regarding scheduling of hearing; draft amended notice of motion for preliminary injunction.	\$ 1,000.00
6/27/2005	1.7	DJC	LR and draft amended notice of motion.	\$ 680.00
6/28/2005	9.2	WWP	Emails to and form attorney Daniel Culhane and other associates; Forward Amended Notice of Motion for Preliminary Injunction to Dan for Filing; Email fro the Court regarding same; Agree to extension of time for Defendants to file Answer to First Amended Complaint.	\$ 3,680.00
6/28/2005	6.5	DJC	Edit and finalize amended notice of motion; LR re same.	\$ 2,600.00
6/29/2005	1.5	WWP	Email from and TCW opposing counsel Tom Willis regarding stipulated extension; Execute and return same by fax and mail; Email from the Court regarding same; Emails form and to and TCW attorney Daniel Culhane and other associates; Review stipulation to extend time;	\$ 600.00
6/29/2005	1.4	DJC	TCW co-counsel.	\$ 560.00
6/30/2005	1.5	WWP	Emails from and to associates regarding update; Review transcript of TRO hearing; TCW co-counsel.	\$ 600.00
6/30/2005	3.0	DJC	Review and analyze transcript of TRO hearing; TCW co-counsel.	\$ 1,200.00
7/1/2005	0.5	WWP	TCW co-counsel.	\$ 200.00
7/1/2005	0.5	DJC	TCW co-counsel.	\$ 200.00
7/5/2005	1.5	WWP	Emails to and from attorney Daniel Culhane; TCW co-counsel; strategy and planning; TCW Accountant	\$ 600.00
7/5/2005	1.0	DJC	TCW co-counsel; strategy and planning.	\$ 400.00

Date	Hours	Attorney	Description	Amount
7/7/2005	0.3	WWP	Fax from associate regarding unclaimed property; TCW co-counsel.	\$ 120.00
7/7/2005	0.3	DJC	TCW co-counsel.	\$ 120.00
7/8/2005	0.4	WWP	TCW co-counsel.	\$ 160.00
7/8/2005	0.4	DJC	TCW co-counsel.	\$ 160.00
7/11/2005	5.5	WWP	Report to clients; TCW attorney Daniel Culhane; Review Answer to First Amended Compliant; forward same to Daniel Culhane; Legal Research 12c Motion; Review discovery from other cases	\$ 2,200.00
7/11/2005	6.5	DJC	Review and analyze answer to First Amended Complaint.	\$ 2,600.00
7/12/2005	1.2	WWP	Email from attorney Daniel Culhane; TCW co-counsel; strategy and planning.	\$ 480.00
7/12/2005	3.5	DJC	TCW co-counsel; strategy and planning.	\$ 1,400.00
7/13/2005	0.3	WWP	TCW co-counsel.	\$ 120.00
7/13/2005	0.3	DJC	TCW co-counsel.	\$ 120.00
7/14/2005	1.8	WWP	TCW Private Investigator and travel to and from meeting regarding same	\$ 720.00
7/15/2005	0.4	WWP	TCW co-counsel.	\$ 160.00
7/15/2005	0.4	DJC	TCW co-counsel.	\$ 160.00
7/18/2005	0.4	WWP	TCW co-counsel.	\$ 160.00
7/18/2005	0.5	DJC	TCW co-counsel.	\$ 200.00
7/19/2005	0.3	WWP	TCWs co-counsel regarding status.	\$ 120.00
7/19/2005	0.3	DJC	TCW co-counsel.	\$ 120.00
7/20/2005	0.5	WWP	Email from associate regarding update; TCW co-counsel.	\$ 200.00
7/20/2005	0.5	DJC	TCW co-counsel.	\$ 200.00
7/22/2005	0.4	WWP	TCW co-counsel.	\$ 160.00
7/22/2005	0.4	DJC	TCW co-counsel.	\$ 160.00
7/25/2005	6.5	WWP	Receive and review opposition to motion for preliminary injunction and supporting papers; LR and begin drafting Reply in Support of Motion for Preliminary Injunction; Email from associate regarding update	\$ 2,600.00
7/25/2005	8.5	DJC	Receive and review opposition to motion for preliminary injunction and supporting papers; LR and begin drafting Reply in Support of Motion for Preliminary Injunction.	\$ 3,400.00

Date	Hours	Attorney	Description	Amount
7/26/2005	4.5	WWP	LR and draft Reply in Support of Motion for Preliminary Injunction	\$ 1,800.00
7/26/2005	6.1	DJC	LR and draft Reply in Support of Motion for Preliminary Injunction	\$ 2,440.00
7/27/2005	9.2	WWP	TCW opposing counsel Robin Johansen; TT and email from associates regarding status; LR and draft Reply in Support of Motion for Preliminary Injunction; Declaration and review transcript	\$ 3,680.00
7/27/2005	8.1	DJC	Travel to Sacramento; LR and draft Reply in Support of Motion for Preliminary Injunction.	\$ 3,240.00
7/28/2005	10.0	WWP	TCW and travel to and from and meeting with Dianna Sorby regarding witness meeting; Emails from associates regarding hearing date and drafts; Legal Research and draft Reply in Support of Motion for Preliminary Injunction	\$ 4,000.00
7/28/2005	6.7	DJC	LR and draft Reply in Support of Motion for Preliminary Injunction; TCW and travel to and from and meeting with Dianna Sorby regarding witness meeting	\$ 2,680.00
7/29/2005	8.3	WWP	LR and draft Reply in Support of Motion for Preliminary Injunction; TCW attorney WWP	\$ 3,320.00
7/29/2005	1.3	DJC	TCW attorney DCJ; LR and draft Reply in Support of Motion for Preliminary Injunction	\$ 520.00
7/30/2005	9.6	WWP	TCW and meet with D. Sorby; continue to draft Reply in Support of Motion for Preliminary Injunction.	\$ 3,840.00
7/31/2005	9.6	DJC	Meet with D. Sorby; continue to draft Reply in Support of Motion for Preliminary Injunction; travel from Sacramento.	\$ 3,840.00
8/1/2005	8.3	WWP	Multiple TCWs and emails to and from attorney Daniel Culhane and other associates; Finalize and file Reply in Support of Motion for Preliminary Injunction; TCW Dianna Sorby	\$ 3,320.00
8/1/2005	9.6	DJC	Finalize and file Reply in Support of Motion for Preliminary Injunction.	\$ 3,840.00
8/2/2005	9.3	WWP	Prepare for hearing; review files, Motion for Preliminary Injunction; Legal research regarding same; Multiple TCWs and emails to and from attorney Daniel Culhane and other associates	\$ 3,720.00

Date	Hours	Attorney	Description	Amount
8/2/2005	4.2	DJC	Prepare for hearing; review files, Motion for Preliminary Injunction.	\$ 1,680.00
8/3/2005	6.5	WWP	Prepare for and attend status conference.	\$ 2,600.00
8/3/2005	2.5	DJC	LR recusal issues.	\$ 1,000.00
8/4/2005	9.2	WWP	Prepare for follow-up status conference; LR conflict of interest for judge; TCW multiple associates and attorney Daniel Culhane regarding update on same; TCW Dianna Sorby; KCRA Channel 3 inquiries	\$ 3,680.00
8/4/2005	8.5	DJC	TCW co-counsel; LR conflict of interest for judge.	\$ 3,400.00
8/5/2005	4.5	WWP	Attend status conference before Judge Shubb.	\$ 1,800.00
8/5/2005	1.5	DJC	Finalize internal memorandum regarding conflict issue.	\$ 600.00
8/6/2005	8.3	WWP	Multiple emails to and from associates regarding update and follow up; Prepare for hearing on Motion for Preliminary Injunction.	\$ 3,320.00
8/6/2005	6.5	DJC	Prepare for hearing on Motion for Preliminary Injunction.	\$ 2,600.00
8/7/2005	4.3	WWP	Prepare for hearing on Motion for Preliminary Injunction; Multiple emails to and from associates regarding update and follow up	\$ 1,720.00
8/7/2005	5.0	DJC	Prepare for hearing on Motion for Preliminary Injunction.	\$ 2,000.00
8/8/2005	8.5	WWP	Create hearing binders and prepare documents; Prepare for and argue Motion for Preliminary Injunction at 1:30 Hearing	\$ 3,400.00
8/8/2005	4.5	DJC	Prepare outline for hearing on motion for Preliminary Injunction.	\$ 1,800.00
8/9/2005	9.5	WWP	TCW associate and emails regarding status; Prepare for travel to and from and attend hearing; LR and draft supplemental letter brief per order of Court.	\$ 3,800.00
8/9/2005	5.8	DJC	LR and draft supplemental letter brief per order of Court.	\$ 2,320.00
8/10/2005	6.1	WWP	Emails to and form attorney Daniel Culhane regarding status; LR and draft supplemental letter brief per order of Court.	\$ 2,440.00
8/10/2005	7.5	DJC	LR and draft supplemental letter brief per order of Court.	\$ 3,000.00

Date	Hours	Attorney	Description	Amount
8/11/2005	7.0	WWP	Emails to and from attorneys Daniel Culhane and Robin Johansen; LR and draft supplemental letter brief per order of Court.	\$ 2,800.00
8/11/2005	4.2	DJC	LR and draft supplemental letter brief per order of Court.	\$ 1,680.00
8/12/2005	2.3	WWP	LR and draft supplemental letter brief per order of Court; Prepare DVDs as exhibits.	\$ 920.00
8/12/2005	4.0	DJC	LR and draft supplemental letter brief per order of Court.	\$ 1,600.00
8/13/2005	2.0	WWP	LR and revise draft supplemental letter brief per order of Court.	\$ 800.00
8/13/2005	0.5	DJC	LR and revise draft supplemental letter brief per order of Court.	\$ 200.00
8/15/2005	7.0	WWP	LR and revise draft supplemental letter brief per order of Court.	\$ 2,800.00
8/15/2005	6.5	DJC	TCW Lexis Nexis regarding filing; Legal research regarding same; TCW associate regarding; LR and draft supplemental letter brief per order of Court.	\$ 2,600.00
8/16/2005	6.5	WWP	TCW attorney Daniel Culhane regarding flings; Review Memorandum of Order Re; Motion for Preliminary Injunction; Finalize and file supplemental Brief on Motion for Preliminary Injunction; review Order denying Motion for Preliminary Injunction.	\$ 2,600.00
8/16/2005	7.1	DJC	Finalize and file supplemental Brief on Motion for Preliminary Injunction; review Order denying Motion for Preliminary Injunction.	\$ 2,840.00
8/17/2005	5.2	WWP	LR standing, other issues; TCW co-counsel; strategy and planning.	\$ 2,080.00
8/17/2005	3.8	DJC	LR standing, other issues; TCW co-counsel; strategy and planning.	\$ 1,520.00
8/18/2005	2.5	DJC	LR process for appealing denial of preliminary injunction.	\$ 1,000.00
8/19/2005	2.6	WWP	Email from associates regarding update; TCW co-counsel; strategy and planning.	\$ 1,040.00
8/19/2005	4.5	DJC	TCW co-counsel; Legal reserarhc and strategy planning.	\$ 1,800.00
8/20/2005	0.3	WWP	Emails to and from attorney Daniel Culhane regarding status	\$ 120.00

Date	Hours	Attorney	Description	Amount
8/20/2005	0.3	DJC	Emails from and to co-counsel regarding status	\$ 120.00
8/21/2005	0.3	WWP	Emails to and from attorney Daniel Culhane regarding status	\$ 120.00
8/21/2005	0.3	DJC	Emails from and to attorney WWP regarding status	\$ 120.00
8/22/2005	3.5	WWP	TCW clients; strategy and planning; Emails to and from attorney Daniel Culhane regarding status	\$ 1,400.00
8/22/2005	4.6	DJC	Emails to and from attorney WWP regarding status; TCW clients; strategy and planning.	\$ 1,840.00
8/23/2005	5.3	WWP	TCW client regarding status; Prepare client memorandum; discuss with clients; Legal Research regaridng same;	\$ 2,120.00
8/23/2005	6.0	DJC	Draft and revise client memorandum; TCW with clients regarding appeal.	\$ 2,400.00
8/24/2005	2.3	WWP	TCW clients; strategy and planning.	\$ 920.00
8/24/2005	0.5	DJC	TCW co-counsel.	\$ 200.00
8/25/2005	6.0	WWP	Review draft and legal research preliminary injunction; TT attorney Daniel Culhane regarding status of same	\$ 2,400.00
8/29/2005	0.5	WWP	TCW co-counsel; strategy and planning.	\$ 200.00
8/29/2005	1.5	DJC	TCW co-counsel; strategy and planning; LR appeal process; begin drafting Notice of Appeal and related documents.	\$ 600.00
8/30/2005	0.5	WWP	Emails to and from attorney Robin Johansen; TCW co-counsel; revise notice of appeal.	\$ 200.00
8/30/2005	2.8	DJC	LR standing and other issues.	\$ 1,120.00
8/31/2005	0.3	WWP	Emails to and from attorney Daniel Culhane regarding proposed discovery plan; Emails to and from attorney Robin Johansen regarding same; TCW co-counsel.	\$ 120.00
8/31/2005	5.3	DJC	LR issues for appeal.	\$ 2,120.00
9/1/2005	0.5	WWP	TCW co-counsel.	\$ 200.00
9/1/2005	6.5	DJC	TCW co-counsel; LR issues for appeal.	\$ 2,600.00
9/2/2005	5.5	WWP	TCWs attorney Daniel Culhane regarding federal rules of court; Emails and TCWs other associates regarding same; TCWs Robin Johansen regarding same; Prepare Preliminary Injunction Appeal and arrange for service and filing of same; Meeting with Vickie Berrninger	\$ 2,200.00

Date	Hours	Attorney	Description	Amount
9/2/2005	9.6	DJC	LR issues for appeal; begin drafting brief; TCW co-counsel	\$ 3,840.00
9/3/2005	8.7	DJC	LR and continue drafting brief	\$ 3,480.00
9/4/2005	6.8	DJC	Continue Legal Research and draft brief	\$ 2,720.00
9/5/2005	7.5	DJC	Continue drafting brief; LR re same.	\$ 3,000.00
9/6/2005	5.7	DJC	Review draft brief; Emails to co-counsel regarding draft brief and transcripts; Revise Biref.	\$ 2,280.00
9/6/2005	5.5	WWP	Review draft brief; Emails from attorney Daniel Culhane regarding same and transcripts	\$ 2,200.00
9/7/2005	1.5	WWP	Legal research regarding federal rules of court; Emails from attorney Daniel Culhane regarding same	\$ 600.00
9/7/2005	5.4	DJC	LR federal rules of court; prepare memorandum regarding same; Emails to co-counsel	\$ 2,160.00
9/8/2005	3.2	WWP	Emails to and from attorney Robin Johansen regarding proposed discovery plan; Emails to and from attorney Daniel Culhane regarding same and federal rules; Emails to and from other associates update; TF Susan Swinton; LR Rule 26(f)	\$ 1,280.00
9/8/2005	6.1	DJC	Emails to and from attorney Robin Johansen regarding proposed discovery plan; Emails to and from attorney Daniel Culhane regarding same and federal rules; Emails to and from other associates update; Review and edit discovery plan; review rules of court; LR re same;	\$ 2,440.00
9/9/2005	9.2	WWP	TCW attorney Robin Johansen regarding federal rules of court; Review draft and TCW's attorney Daniel Culhane regarding status of same; TCW associates regarding same; TCW regarding transcripts; Prepare email status report to clients; Prepare Motion for Judicial Notice, Motion to Strike and Declaration	\$ 3,680.00
9/9/2005	9.1	DJC	Continue LR regarding rules of court, issues on appeal; TCW with co-counsel	\$ 3,640.00
9/11/2005	1.5	WWP	Emails to and from attorneys Robin Johansen and Daniel Culhane and TCW co-counsel regarding stay of discovery;	\$ 600.00

Date	Hours	Attorney	Description	Amount
9/11/2005	0.8	DJC	TCW and emails from and to co-counsel regarding stay of case, other issues.	\$ 320.00
9/12/2005	3.5	WWP	TCWs and emails to and from attorneys Daniel Culhane and Robin Johansen regarding Stipulation; Arrange for signature and fax same	\$ 1,400.00
9/12/2005	4.5	DJC	Stipulation to stay proceedings during appeal; Emails to and from and TCW co-counsel regarding same	\$ 1,800.00
9/13/2005	0.3	WWP	Email from court regarding filing	\$ 120.00
9/13/2005	8.5	DJC	Work with Court to enable electronic filing, correct filing glitches; continue drafting opening brief.	\$ 3,400.00
9/14/2005	7.5	WWP	Legal research; Review file and related document and revise Opening Brief; TCWs and emails from and to attorney Daniel Culhane regarding same	\$ 3,000.00
9/14/2005	8.3	DJC	LR and draft opening brief; TCW and emails to and from co-counsel regarding same	\$ 3,320.00
9/15/2005	8.0	WWP	TCW court clerk regarding transcript; Email from court regarding filings; Legal Research federal rules of court and forward same to attorney Daniel Culhane, emails and TCW's attorney Daniel Culhane regarding same	\$ 3,200.00
9/15/2005	8.7	DJC	LR and draft opening brief; inquire regarding status of transcripts; TCW and emails from co-counsel regarding same	\$ 3,480.00
9/16/2005	0.6	WWP	TCW Court clerk regarding transcript; TCW attorney Daniel Culhane regarding same	\$ 240.00
9/16/2005	7.5	DJC	LR and draft opening brief; TCW co-counsel regarding same	\$ 3,000.00
9/17/2005	8.6	DJC	LR and draft opening brief.	\$ 3,440.00
9/18/2005	0.4	WWP	TCW and emails to and from attorney Daniel Culhane regarding status.	\$ 160.00
9/18/2005	5.5	DJC	LR and draft opening brief; TCW co-counsel regarding same	\$ 2,200.00
9/19/2005	1.8	WWP	TCWs Court clerk regarding status of the transcript; Arrange to pick up same; TCWs attorney Daniel Culhane regarding status of same	\$ 720.00
9/19/2005	13.0	DJC	LR and draft opening brief; TCW co-counsel regarding same	\$ 5,200.00

Date	Hours	Attorney	Description	Amount
9/20/2005	10.5	DJC	LR and draft opening brief.	\$ 4,200.00
9/20/2005	0.5	WWP	TCW Gary Kesselmen; Return call from public inquiry	\$ 200.00
9/21/2005	8.5	WWP	TF Gary Kesselman; LR and Revise documents, multiple TCWs and emails to and from attorney Daniel Culhane regarding same	\$ 3,400.00
9/21/2005	12.3	DJC	LR and draft opening brief; TCW co-counsel regarding same	\$ 4,920.00
9/22/2005	14.0	DJC	LR and continue drafting Opening Brief.	\$ 5,600.00
9/22/2005	4.5	WWP	Review draft make necessary revisions, still in draft form	\$ 1,800.00
9/23/2005	9.1	DJC	Legal Research and continue drafting brief.	\$ 3,640.00
9/23/2005	3.5	WWP	Review previous draft of Opening Brief make revisions	\$ 1,400.00
9/24/2005	12.5	DJC	Continue LR and draft opening brief; Forward revised draft to co-counsel	\$ 5,000.00
9/24/2005	5.5	WWP	Review previous draft of Opening Brief make revisions	\$ 2,200.00
9/25/2005	3.0	DJC	Review draft make necessary revisions, still in draft form	\$ 1,200.00
9/25/2005	0.9	WWP	Review draft of Opening Brief	\$ 360.00
9/26/2005	7.5	DJC	LR and draft opening brief; TCW co-counsel regarding same	\$ 3,000.00
9/26/2005	1.6	WWP	TCW associate attorney; Review draft of Opening Brief	\$ 640.00
9/27/2005	9.1	DJC	LR and continue drafting Opening Brief; forward same to co-counsel; TCW co-counsel regarding same	\$ 3,640.00
9/27/2005	8.5	WWP	Receive draft from associate attorney; Review and make revisions to same; Regarding same; TCW co-counsel regarding same	\$ 3,400.00
9/28/2005	10.3	DJC	LR and draft opening brief; TCWs WWP regarding same	\$ 4,120.00
9/28/2005	8.5	WWP	Review draft from co-counsel DJC; and LR regarding same; Several TCWs DJC regarding same	\$ 3,400.00
9/29/2005	6.5	WWP	Revise documents, multiple TCWs and emails to and from attorney Daniel Culhane regarding same	\$ 2,600.00
9/29/2005	12.5	DJC	LR and draft opening brief.	\$ 5,000.00

Date	Hours	Attorney	Description	Amount
9/30/2005	8.5	WWP	Finalize document; forward same to attorney Robin Johansen by fax and mail; Complete brief; Prepare two volumes of Excerpts of Records; Arrange of filing and service.	\$ 3,400.00
9/30/2005	3.8	DJC	Complete and file brief.	\$ 1,520.00
10/6/2005	2.5	WWP	Travel to and from lunch meeting with private investigator	\$ 1,000.00
10/7/2005	1.5	WWP	Faxes to and from attorney Daniel Culhane	\$ 600.00
10/7/2005	1.5	DJC	Review Court's order; consult with co-counsel.	\$ 600.00
10/10/2005	0.3	WWP	TCW attorney Daniel Culhane regarding status	\$ 120.00
10/10/2005	0.3	DJC	TCW co-counsel regarding status.	\$ 120.00
10/12/2005	0.8	WWP	TCW co-counsel DJC; Receive and review order from court regarding preliminary injunction	\$ 320.00
10/12/2005	1.0	DJC	Review Court's order; discuss with co-counsel.	\$ 400.00
10/14/2005	1.2	DJC	Review status; consult with co-counsel regarding same.	\$ 480.00
10/14/2005	0.4	WWP	Emails to and from attorney Daniel Culhane and other associates regarding update	\$ 160.00
10/16/2005	2.5	WWP	Review Order and Briefing Schedule; forward same to co-counsel	\$ 1,000.00
10/24/2005	2.5	WWP	Legal research supplemental Brief	\$ 1,000.00
10/25/2007	1.2	WWP	Legal research phisical evidence DVD filing	\$ 480.00
10/26/2005	2.8	WWP	Emails to and from attorney Daniel Culhane regarding update	\$ 1,120.00
10/26/2005	2.7	DJC	Consult with co-counsel regarding status; Research and draft motion to file physical evidence.	\$ 1,080.00
10/27/2005	6.5	WWP	Emails to and from attorney Daniel Culhane and other associates regarding update; Finalize Motion to File Physical Evidence, arrange for filing and service	\$ 2,600.00
10/27/2005	3.6	DJC	Edit and finalize motion to file physical evidence.	\$ 1,440.00
10/28/2005	6.3	WWP	Review Appellee's Ansering Brief and Excerpts of Record; LR regarding same	\$ 2,520.00
10/31/2005	6.5	WWP	Prepare motion to file physical evidence; arrange for service and filing of same	\$ 2,600.00
11/2/2005	7.5	WWP	Review Opposition; Legal research and draft Reply Brief; TCW attorney DCJ	\$ 3,000.00
11/2/2005	4.5	DJC	Continue Legal Research and start drafting Reply	\$ 1,800.00

Date	Hours	Attorney	Description	Amount
			Brief.	
11/3/2005	7.5	WWP	Update clients; Legal research on Reply Brief, review cases and statutes; TCW Dianna Sorby	\$ 3,000.00
11/3/2005	8.0	DJC	Review Answering Brief form opposing side; Continue Legal Research and continue drafting Reply Brief.	\$ 3,200.00
11/4/2005	4.5	WWP	TCW attorney DJC, and legal research and revise draft Reply Brief	\$ 1,800.00
11/4/2005	10.0	DJC	Review Appellee's Ansering Brief and Excerpts of Record; LR regarding same; Continue drafting the brief.	\$ 4,000.00
11/5/2005	11.0	DJC	LR and draft Reply Brief.	\$ 4,400.00
11/6/2005	1.0	WWP	Meeting with pribate investigator	\$ 400.00
11/6/2005	4.5	DJC	Continue Legal Research and start drafting Reply Brief.	\$ 1,800.00
11/4/2005	2.5	WWP	Review Draft Reply	\$ 1,000.00
11/7/2005	11.0	DJC	Review Answering Brief form opposing side; Continue Legal Research and continue drafting Reply Brief.	\$ 4,400.00
11/8/2005	11.5	DJC	LR and draft Reply Brief.	\$ 4,600.00
11/8/2005	8.0	WWP	TCW co-counsel DJC; Review draft of Reply Brief; revise same, forward same to attorney Daniel J. Culhane	\$ 3,200.00
11/9/2005	12.0	DJC	LR and draft Reply Brief.	\$ 4,800.00
11/9/2005	8.0	WWP	TCW co-counsel DJC; LR and review draft of Reply Brief; revise same, forward same to attorney Daniel J. Culhane	\$ 3,200.00
11/10/2005	7.0	DJC	LR and draft Reply Brief.	\$ 2,800.00
11/10/2005	4.0	WWP	Review draft of Reply Brief; revise same, forward same to attorney Daniel J. Culhane	\$ 1,600.00
11/11/2005	9.5	DJC	LR and draft Reply Brief.	\$ 3,800.00
11/11/2005	7.0	WWP	Review draft of Reply Brief; revise same, forward same to attorney Daniel J. Culhane,	\$ 2,800.00
11/12/2005	9.3	DJC	LR and draft Reply Brief.	\$ 3,720.00
11/12/2005	8.8	WWP	Emails to and from attorney Daniel Culhane; LR and revise reply breif	\$ 3,520.00
11/13/2005	14.0	DJC	LR and draft Reply Brief.	\$ 5,600.00
11/13/2005	7.0	WWP	Legal Research, forward same to attorney Daniel J. Culhane	\$ 2,800.00

Date	Hours	Attorney	Description	Amount
11/14/2005	7.5	WWP	Pick up DCJ from Sacramento Airport and meeting; Legal Research, forward same to attorney Daniel J. Culhane	\$ 3,000.00
11/14/2005	6.5	DJC	Finalize and file Reply Brief; draft and file Request for Oral Argument.	\$ 2,600.00
11/15/2005	3.5	DJC	Organize files; review status.	\$ 1,400.00
11/16/2005	1.0	WWP	Correct documents and LT court forwarding same to the court	\$ 400.00
11/17/2005	6.8	WWP	Review and revise Request for Oral Argument on Appeal; Arrange for filing and service; Prepare necessary document and forward to court and attorney Daniel Culhane	\$ 2,720.00
11/17/2005	2.5	DJC	Review documents from attorney WWP	\$ 1,000.00
11/18/2005	2.5	DJC	Correct and file proof of service; strategy and planning.	\$ 1,000.00
11/21/2005	6.5	WWP	Travel to and from Los Angeles and meeting with Brian Boydston; Report to Clients	\$ 2,600.00
11/28/2005	1.4	WWP	LT clients regarding update and forwarding necessary documents	\$ 560.00
12/2/2005	0.5	WWP	Forward necessary document to associate attorney Daniel Culhane	\$ 200.00
12/2/2005	0.6	DJC	Review Court's order regarding Panel retains jurisdiction over appeal.	\$ 240.00
12/7/2005	1.5	WWP	Copies of Opposition and Reply Brief	\$ 600.00
12/14/2005	0.7	WWP	TCW associate regarding update	\$ 280.00
12/14/2005	0.7	DJC	Consult with co-counsel regarding status	\$ 280.00
12/16/2005	1.5	WWP	TCWs associates, long discussions regarding status, and possible next steps	\$ 600.00
12/16/2005	1.5	DJC	Consult with co-counsel regarding status	\$ 600.00
12/20/2005	2.5	WWP	Travel to and from and attend meeting with private investigator	\$ 1,000.00
12/21/2005	2.5	WWP	Travel to and from meeting with private investigator	
12/23/2005	0.5	WWP	TCW associate discussed status	\$ 200.00
12/23/2005	0.5	DJC	Consult with co-counsel regarding status	\$ 200.00
1/5/2006	1.0	WWP	2xTCW associates regarding updates	\$ 400.00
1/5/2006	1.0	DJC	Consult with co-counsel regarding status	\$ 400.00
1/10/2006	1.0	DJC	Consult with co-counsel regarding status	\$ 400.00
1/11/2006	0.5	DJC	TCW co-counsel regarding	\$ 200.00

Date	Hours	Attorney	Description	Amount
1/11/2006	1.5	WWP	Email received from associates regarding sibmittals; TCW co-counsel DJC regarding same	\$ 600.00
9/12/2005	6.5	WWP	TCWs and emails to and from attorneys Daniel Culhane and Robin Johansen regarding Stipulation; Arrange for signature and fax same; Travle to and from Los Angeles meeting with Brian Boydston	\$ 2,600.00
9/12/2005	1.5	DJC	TCWs and emails from and to attorney WWP regarding Stipulation	\$ 600.00
9/13/2005	0.3	WWP	Email from court regarding filing	\$ 120.00
9/14/2005	7.5	WWP	Legal research; Review file and related document and revise Opening Brief; TCWs and emails from and to attorney Daniel Culhane regarding same	\$ 3,000.00
9/14/2005	5.5	DJC	Review documents from attorney WWP, Revise same; TCWs and emails to and from WWP regarding same	\$ 2,200.00
9/15/2005	8.0	WWP	TCW court clerk regarding transcript; Email from court regarding filings; Legal Research federal rules of court and forward same to attorney Daniel Culhane, emails and TCW's attorney Daniel Culhane regarding same	\$ 3,200.00
9/15/2005	6.5	DJC	Legal research rules of court; Emails from and to and TCWs attorney WWP regarding same	\$ 2,600.00
9/16/2005	0.6	WWP	TCW Court clerk regarding transcript; TCW attorney Daniel Culhane regarding same	\$ 240.00
9/16/2005	0.4	DJC	TCW attorney WWP regarding transcripts from the court	\$ 160.00
9/18/2005	0.4	WWP	TCW and emails to and from attorney Daniel Culhane regarding status	\$ 160.00
9/18/2005	0.4	DJC	TCW and emails from and to co-counsel WWP	\$ 160.00
1/20/2006	0.3	WWP	TCW Antonio regarding case; Email from attorney Daniel Culhane regarding Contact information	\$ 120.00
1/20/2006	0.2	DJC	Email from attorney WWP regarding Contact information	\$ 80.00
1/21/2006	1.0	WWP	Email received from Daniel Culhane regarding Index of Documents	\$ 400.00
1/21/2006	1.0	DJC	Email to attorney WWP regarding Index of Documents	\$ 400.00

Date	Hours	Attorney	Description	Amount
1/22/2006	0.3	WWP	Email reviewed from State Contoller's Office	\$ 120.00
1/30/2006	0.3	WWP	Emails from and to associates; Review same	\$ 120.00
1/30/2006	1.2	DJC	Prepare email regarding status, media strategy.	\$ 480.00
1/31/2006	1.0	WWP	Prepare email to the media and other associates regarding update, TCW associates regarding same	\$ 400.00
1/31/2006	1.0	DJC	Consult with co-counsel.	\$ 400.00
2/1/2006	0.5	WWP	Email to attorney Daniel Culhane regarding unclaimed property; TCW co-counsel.	\$ 200.00
2/1/2006	0.6	DJC	Email from co-counsel and TCW co-counsel regarding status	\$ 240.00
2/9/2006	0.3	WWP	TCW co-counsel.	\$ 120.00
2/9/2006	0.3	DJC	TCW attorney WWP regarding status	\$ 120.00
2/15/2006	1.0	WWP	Email from associate regarding update	\$ 400.00
2/15/2006	1.0	DJC	Email to co-counsel WWP	\$ 400.00
2/16/2006	0.2	WWP	Email from associate	\$ 80.00
2/16/2006	0.2	DJC	Email to co-counsel WWP regarding update	\$ 80.00
2/21/2006	1.0	WWP	Email from associate; Review same	\$ 400.00
2/21/2006	1.0	DJC	Consult with co-counsel regarding status	\$ 400.00
2/26/2006	0.2	WWP	Emails from associates	\$ 80.00
2/26/2006	0.4	DJC	Consult with co-counsel regarding status	\$ 160.00
3/7/2006	0.5	WWP	Emails to and from Richard Cohen regarding USDOJ	\$ 175.00
3/8/2006	0.2	WWP	Email received regarding Bill 1752.	\$ 70.00
3/15/2006	2.6	WWP	Emails to and from associate's; Emails from investigator regarding SB 1752, review same; TCW and emails to DJC	\$ 1,040.00
3/15/2006	2.3	DJC	Emails from and to co-counsel regarding Bill SB 1752; review same; TCW regarding same	
3/16/2006	1.7	WWP	Prepare letter to the senators; arrange for deliver and distribution; TCW attorney DJC regarding status	\$ 680.00
3/16/2006	1.5	DJC	Consult with co-counsel regarding status	\$ 600.00
3/17/2006	1.2	WWP	TCW and emails from attorney Daniel Culhane regarding update	\$ 480.00
3/17/2006	1.2	DJC	Consult with co-counsel regarding status	\$ 480.00
3/24/2006	1.0	WWP	Emails from associates and attorney Daniel Culhane regarding status	\$ 400.00
3/24/2006	1.0	DJC	Consult with co-counsel regarding status	\$ 400.00

Date	Hours	Attorney	Description	Amount
3/29/2006	0.3	WWP	Emails from and to attorney Daniel Culhane and California Legislature	\$ 120.00
3/29/2006	0.7	DJC	Consult with co-counsel regarding status; Emails to co-counsel	\$ 280.00
3/31/2006	0.5	WWP	Emails to and from attorney Daniel Culhane and California Legislature	\$ 200.00
3/31/2006	0.5	DJC	Emails from and to co-counsel WWP regarding status	\$ 200.00
4/1/2006	0.8	WWP	Emails to and from California Legislature regarding update	\$ 320.00
4/3/2006	1.0	DJC	Emails from and to co-counsel regarding status	\$ 400.00
4/3/2006	1.6	WWP	Emails to and from associates, attorney Daniel Culhane, assistant, and California Legislature regarding update	\$ 640.00
4/4/2006	5.2	DJC	Email from co-counsel regarding update, Legal Research options	\$ 2,080.00
4/4/2006	8.2	WWP	Email to assistant and attorney DJC regarding update, LR options	\$ 3,280.00
4/5/2006	8.5	WWP	Prepare brief to fax to Daniel Culhane, fax transmitted.	\$ 3,400.00
4/5/2006	6.5	DJC	Emails from and to California Legislature; Fax from WWP and review and revise same	\$ 2,600.00
4/7/2006	4.7	WWP	Finalize Motion to Expedite from Baghdad, Iraq, and arrange for filing and service; Emails to and from attorney Daniel Culhane and other associates regarding same	\$ 1,880.00
4/7/2006	4.0	DJC	Review Motion to Expedite; Emails from and to attorney WWP in Baghdad, Iraq, regarding same	\$ 1,600.00
4/8/2006	1.3	DJC	Emails from and to co-counsel regarding Motion to Expedite	\$ 520.00
4/8/2006	2.9	WWP	Forward Motion to Expedite, from Baghdad, Iraq, to associates; Emails to and from attorney Daniel Culhane regarding same	\$ 1,160.00
4/10/2006	0.8	DJC	Emails from co-counsel	\$ 320.00
4/10/2006	1.3	WWP	Emails to and from attorney co-counsel and assistant regarding update and follow up; Email to California Legislature regarding update	\$ 520.00

Date	Hours	Attorney	Description	Amount
4/11/2006	3.5	WWP	Email from Remcho, Johansen & Purcell regarding Opposition; Review same; Emails to and from associate attorney regarding same	\$ 1,400.00
4/11/2006	1.0	DJC	Emails from co-counsel WWP	\$ 400.00
4/12/2006	0.5	WWP	Emails to and from associate attorney DJC	\$ 200.00
4/12/2006	0.5	DJC	Emails from and to co-counsel	\$ 200.00
4/13/2006	0.5	WWP	Emails to and from associate attorney and other associates	\$ 200.00
4/13/2006	0.3	DJC	Emails from and to co-counsel	\$ 120.00
4/15/2006	0.2	WWP	Emails to and from associates and co-counsel	\$ 80.00
4/15/2006	0.2	DJC	Emails from and to co-counsel WWP regarding update	\$ 80.00
4/23/2006	0.4	WWP	Email to and from assistant regarding status	\$ 160.00
4/25/2006	6.9	WWP	TCW associates regarding update; Review Opposition to Motion for TRO and Motion for Preliminary Injunction; LR regarding same	\$ 2,760.00
4/25/2006	3.5	DJC	TCW co-counsel; Review Opposition	\$ 1,400.00
4/27/2006	2.5	WWP	TCW news reporter; TCW California State Legislature	\$ 1,000.00
5/2/2006	0.4	DJC	Emails from and to co-counsel	\$ 160.00
5/2/2006	0.4	WWP	Emails to and from associate attorney	\$ 160.00
5/4/2006	0.3	WWP	Email from California Legislature	\$ 120.00
5/5/2006	0.3	DJC	Emails to co-counsel	\$ 120.00
5/5/2006	0.5	WWP	Email from associates	\$ 200.00
5/7/2006	0.5	DJC	Emails to co-counsel	\$ 200.00
5/7/2006	0.8	WWP	Emails from associate attorney	\$ 320.00
5/8/2006	0.4	WWP	Emails to and from associates	\$ 160.00
5/8/2006	0.4	DJC	Emails from and to	\$ 160.00
5/9/2006	1.9	WWP	TCW and meeting with an associate regarding case	\$ 760.00
5/9/2006	1.0	DJC	TCW co-counsel	\$ 400.00
5/10/2006	1.3	WWP	Emails from and TCW California Legislature, Prepare a lengthy email to TCalifornia Legislature	\$ 520.00
5/11/2006	0.8	WWP	Emails to California Legislature and other associates	\$ 320.00
5/11/2006	0.4	DJC	Emails from and to WWP	\$ 160.00
5/12/2006	0.2	WWP	Email to associates regarding update	\$ 80.00

Date	Hours	Attorney	Description	Amount
5/12/2006	0.2	DJC	Email	\$ 80.00
5/13/2006	0.5	WWP	Email from and to associates	\$ 200.00
5/13/2006	0.3	DJC	Email to and from attorney WWP	\$ 120.00
5/16/2006	2.8	WWP	Prepare a lengthy email to California Legislature; Email to associate attorney regarding same	\$ 1,120.00
5/16/2006	1.8	DJC	Review lengthy email from WWP	\$ 720.00
5/17/2006	1.9	WWP	Emails to and from California Legislature, co-counsel, and other associates regarding this matter	\$ 760.00
5/17/2006	1.0	DJC	Review email from California Legislature; and emails from attorney WWP	\$ 400.00
5/18/2006	0.2	WWP	Email from associate regarding update	\$ 80.00
5/18/2006	0.2	DJC	Email to co-counsel	\$ 80.00
5/19/2006	1.8	WWP	Email to and from attorney Daniel Culhane and other associates	\$ 720.00
5/19/2006	1.0	DJC	Emails from and to co-counsel regarding status	\$ 400.00
5/30/2006	0.5	WWP	TCW associate discussed status and update	\$ 200.00
5/30/2006	0.5	DJC	TCW co-counsel WWP discussed update and status	\$ 200.00
6/16/2006	8.5	WWP	LR and Draft First Amended Complaint; Forward same to associate attorney	\$ 3,400.00
6/16/2006	8.0	DJC	Emails from co-counsel; LR and Draft First Amended Complaint	\$ 3,200.00
6/17/2006	8.5	WWP	LR and Draft First Amended Complaint; TCW and emails from and to associate attorney DJC regarding same	\$ 3,400.00
6/17/2006	7.5	DJC	Legal research; Revise draft of First Amended Complaint; Emails to and from and TCW co-counsel regarding same	\$ 3,000.00
6/18/2006	8.0	WWP	LR and Draft First Amended Complaint; Emails from and to and TCW attorney DJC regarding same	\$ 3,200.00
6/18/2006	7.0	DJC	Continue revising drafts of First Amended Complaint; Legal research regarding same; TCW and emails to and from WWP regarding same	\$ 2,800.00
6/20/2006	8.7	WWP	LR and Draft First Amended Complaint; Prepare Request for Recusal and Reassignment of Case and all supporting documents	\$ 3,480.00

Date	Hours	Attorney	Description	Amount
6/20/2006	8.0	DJC	Review and revise Request for Recusal and Reasingment of Case and all supporting documents; Legal research and Draft First Amended Complaint	\$ 3,200.00
6/21/2006	8.0	WWP	Continue legal research and continue revising First Amended Complaint	\$ 3,200.00
6/22/2006	8.0	WWP	Finalize and file First Amended Complaint with the Eastern District Court; Review Order from the Court.	\$ 3,200.00
6/22/2006	8.0	DJC	Final review and revise of the First Amended Complaint; TCW and emails from and to attorney WWP regarding same	\$ 3,200.00
6/23/2006	0.2	WWP	Email from attorney Daniel Culhane	\$ 80.00
6/23/2006	0.2	DJC	Email to and from attorney WWP	\$ 80.00
6/26/2006	0.2	WWP	Fax to Daniel Culhane	\$ 80.00
7/26/2006	0.2	DJC	Fax from attorney WWP	\$ 80.00
7/3/2006	0.2	WWP	Email from Daniel McKinley	\$ 80.00
7/5/2006	0.6	WWP	Email from attorney Daniel Culhane; Finalize letter to attorney Robin Johansen	\$ 240.00
7/5/2006	0.5	DJC	Email to co-counsel; Review letter to attorney Robin Johanse	\$ 200.00
7/17/2006	0.9	WWP	TCW attorney Daniel Culhane; Emails regarding same	\$ 360.00
7/17/2006	0.9	DJC	Emails from and to and TCW co-counsel WWP	\$ 360.00
7/18/2006	0.5	WWP	Email reviewed, fax sent to associate's.	\$ 200.00
7/18/2006	0.5	DJC	Email to attorney WWP, and fax from WWP regarding same	\$ 200.00
7/20/2006	0.5	DJC	TCW co-counsel	\$ 200.00
7/20/2006	0.9	WWP	TCW Daniel McKinley; TCW attorney Daniel Culhane regarding update	\$ 360.00
7/21/2006	2.5	DJC	Emails to and from co-counsel regarding update and follow up	\$ 1,000.00
7/21/2006	6.3	WWP	Emails to and from attorney Daniel Culhane; Faxes to Daniel Culhane forwarding legal research, and cases	\$ 2,520.00
7/22/2006	6.5	WWP	Review Briefs and record	\$ 2,600.00
7/23/2006	8.2	WWP	Begin review of cases; Begin drafting consultant declaration	\$ 3,280.00
7/24/2006	6.5	DJC	TCW and emails to and from co-counsel regaridng declaration; Revise same	\$ 2,600.00

Date	Hours	Attorney	Description	Amount
7/24/2006	6.5	WWP	TCW consultant and associate attorney; Multiple emails to and from associate attorney, and other associates regarding update; Faxes regarding same	\$ 2,600.00
7/25/2006	5.5	DJC	TCWs co-counsel, continue drafting declaration; review exhibits	\$ 2,200.00
7/25/2006	10.5	WWP	TCWs associates, meeting with consultant and finalize his declaration; TCWs associate attorney; Finalize pleading, review exhibits, arrange for filing; LT attorneys at Remcho, Johansen & Purcell	\$ 4,200.00
7/26/2006	7.5	DJC	Review LF attorney Kruger; Emails from and to co-counsel	\$ 3,000.00
7/26/2006	8.4	WWP	LF attorney Christopher Kruger addressed to Ninth Circuit Court of Appeals regarding the upcoming hearing; Emails to and from attorney Daniel Culhane regarding same	\$ 3,360.00
7/27/2006	8.5	WWP	Prepare letter to the court regarding the upcoming hearing and responding to attorney Krueger; revise and finalize letter; Draft reply Memorandum in Suport of Preliminary Injunction	\$ 3,400.00
7/27/2006	7.5	DJC	Revise letter to court regardin the upcoming hearing; Revise Reply Memorandum in Support of Preliminary Injunction	\$ 3,000.00
7/28/2006	9.0	DJC	Prepare for and travel to Seattle, Washington for oral argument	\$ 3,600.00
7/28/2006	9.0	WWP	Prepare for and travel to Seattle, Washington for oral argument	\$ 3,600.00
7/30/2006	9.0	DJC	Review cases, prepare for oral argument	\$ 3,600.00
7/30/2006	9.0	WWP	Review cases, prepare for oral argument	\$ 3,600.00
7/31/2006	9.0	DJC	Attend hearing in Seattle Washington	\$ 3,600.00
7/31/2006	9.0	WWP	Attend hearing in Seattle Washington	\$ 3,600.00
8/1/2006	10.0	DJC	Travel from Seattle, Washington	\$ 4,000.00
8/1/2006	10.0	WWP	Travel from Seattle, Washington	\$ 4,000.00
8/2/2006	8.5	DJC	Emails from and to co-council; Finalize Reply	\$ 3,400.00
8/2/2006	9.3	WWP	Emails to and from associates regarding hearing; Finalize Reply Memorandum in Support of Motion for Preliminary Injunction	\$ 3,720.00
8/3/2006	0.3	DJC	Emails from and to co-counsel regarding status	\$ 120.00
8/3/2006	0.3	WWP	Emails to and from associates regarding hearing	\$ 120.00

Date	Hours	Attorney	Description	Amount
8/4/2006	0.2	DJC	Fax from co-counsel	\$ 80.00
8/4/2006	0.2	WWP	Fax to attorney Daniel Culhane	\$ 80.00
8/7/2006	0.5	WWP	Emails to Office of California Legislature	\$ 200.00
8/9/2006	1.0	DJC	Emails from co-counsel regarding oral hearing	\$ 400.00
8/9/2006	1.2	WWP	Multiple emails to and from associates regarding oral hearing	\$ 480.00
8/10/2006	1.0	DJC	Emails from and to co-counsel regarding status	\$ 400.00
8/10/2006	1.0	WWP	Emails to and from associates regarding hearing	\$ 400.00
8/14/2006	0.3	DJC	Fax from co-counsel regarding costs	\$ 120.00
8/14/2006	0.3	WWP	Fax to attorney Daniel Culhane regarding costs	\$ 120.00
8/15/2006	0.3	WWP	Emails form and to WWP	\$ 120.00
8/15/2006	0.5	WWP	Emails to and from associates	\$ 200.00
10/16/2006	1.0	DJC	TCW attorney WWP	\$ 400.00
10/16/2006	1.0	WWP	TCW co-counsel.	\$ 400.00
11/29/2006	0.3	WWP	Emails from and to co-counsel	\$ 120.00
11/29/2006	0.2	WWP	Emails to and from associates	\$ 80.00
12/27/2006	0.3	WWP	Emails to and from associates	\$ 120.00
1/3/2007	0.4	DJC	TCW co-counsel.	\$ 160.00
1/3/2007	0.4	WWP	TCW co-counsel.	\$ 160.00
1/4/2007	0.4	DJC	Emails to and from associates	\$ 160.00
1/4/2007	0.4	WWP	Emails to and from associates	\$ 160.00
1/5/2007	1.0	DJC	TCW co-counsel.	\$ 400.00
1/5/2007	1.0	WWP	TCW co-counsel.	\$ 400.00
1/6/2007	0.4	DJC	Emails to and from associates	\$ 160.00
1/6/2007	0.4	WWP	Emails to and from associates	\$ 160.00
1/8/2007	0.4	DJC	TCW co-counsel.	\$ 160.00
1/8/2007	0.4	WWP	TCW co-counsel.	\$ 160.00
1/9/2007	1.0	DJC	Emails to and from associates	\$ 400.00
1/9/2007	1.0	WWP	Emails to and from associates	\$ 400.00
1/10/2007	0.4	DJC	TCW co-counsel.	\$ 160.00
1/10/2007	0.4	WWP	TCW co-counsel.	\$ 160.00
1/11/2007	0.4	DJC	Emails to and from associates	\$ 160.00
1/11/2007	0.4	WWP	Emails to and from associates	\$ 160.00
1/12/2007	1.0	DJC	TCW co-counsel.	\$ 400.00
1/12/2007	1.0	WWP	TCW co-counsel.	\$ 400.00
1/15/2007	1.0	DJC	Emails to and from associates	\$ 400.00
1/15/2007	1.0	WWP	Emails to and from associates	\$ 400.00

Date	Hours	Attorney	Description	Amount
1/16/2007	0.4	DJC	TCW co-counsel.	\$ 160.00
1/16/2007	0.4	WWP	TCW co-counsel.	\$ 160.00
1/17/2007	1.0	DJC	Emails to and from associates	\$ 400.00
1/17/2007	1.0	WWP	Emails to and from associates	\$ 400.00
1/18/2007	0.4	DJC	TCW co-counsel.	\$ 160.00
1/18/2007	0.4	WWP	TCW co-counsel.	\$ 160.00
1/19/2007	0.4	DJC	Emails to and from associates	\$ 160.00
1/19/2007	0.4	WWP	Emails to and from associates	\$ 160.00
1/22/2007	1.0	DJC	TCW co-counsel.	\$ 400.00
1/22/2007	1.0	WWP	TCW co-counsel.	\$ 400.00
1/23/2007	0.4	DJC	Emails to and from associates	\$ 160.00
1/23/2007	0.4	WWP	Emails to and from associates	\$ 160.00
1/24/2007	1.0	DJC	TCW co-counsel.	\$ 400.00
1/24/2007	1.0	WWP	TCW co-counsel.	\$ 400.00
1/25/2007	0.4	DJC	Emails to and from associates	\$ 160.00
7/25/2007	0.4	WWP	Emails to and from associates	\$ 160.00
1/27/2007	0.4	DJC	TCW co-counsel.	\$ 160.00
7/27/2007	0.4	WWP	TCW co-counsel.	\$ 160.00
1/29/2007	1.0	DJC	Emails to and from associates	\$ 400.00
1/29/2007	1.0	WWP	Emails to and from associates	\$ 400.00
1/31/2007	0.4	DJC	TCW co-counsel.	\$ 160.00
2/1/2007	0.4	WWP	TCW co-counsel.	\$ 160.00
2/2/2007	0.4	DJC	Emails to and from associates	\$ 160.00
2/3/2007	0.4	WWP	Emails to and from associates	\$ 160.00
2/4/2007	0.4	DJC	TCW co-counsel.	\$ 160.00
2/5/2007	0.5	WWP	Emails to and from associates	\$ 200.00
2/6/2007	0.5	DJC	Emails to and from associates	\$ 200.00
2/6/2007	0.4	DJC	TCW co-counsel WWP regarding status	\$ 160.00
3/28/2007	0.2	WWP	Email to associate regarding Controller's Office	\$ 80.00
4/4/2007	1.8	WWP	Fax to associate regarding status and follow up; TF attorney interested in the case	\$ 720.00
4/4/2007	1.0	DJC	Fax from co-counsel regarding status; Review same	\$ 400.00
4/16/2007	0.5	WWP	Emails to and from associates	\$ 200.00
4/16/2007	0.4	DJC	Emails from and to co-counsel regarding status	\$ 160.00
4/17/2007	0.2	WWP	Email from associate.	\$ 80.00
4/17/2007	0.2	DJC	Email to co-counsel	\$ 80.00

Date	Hours	Attorney	Description	Amount
4/30/2007	10.5	WWP	Email from associates, reviewed decision received via mail; TCW co-counsel; Begin preparation of TRO; Reivew email from Court	\$ 4,200.00
4/30/2007	9.5	DJC	Email to co-counsel regarding motions and orders; Draft TRO and review email from Court	\$ 3,800.00
5/1/2007	12.5	WWP	Draft Declaration and Pleading; Emails from associate attorney	\$ 5,000.00
5/1/2007	13.0	DJC	Emails to and from co-counse; Draft declarations and pleading.	\$ 5,200.00
5/2/2007	7.5	DJC	Motion to Substitute Parties; Emails froma and to co-counsel	\$ 3,000.00
5/2/2007	8.5	WWP	Motion to Substitute Parties; Emails to and from associates; Respond to inquiries from media	\$ 3,400.00
5/4/2007	10.5	WWP	Email from attorney Daniel Culhane, E-file proposed order, TCW Judge, TCW associates; Write letter to Ninth Circuit, corrections made; letter finalized regarding publication; LR next steps; address media inquiries	\$ 4,200.00
5/4/2007	8.5	DJC	Email to co-counsel; Prepare Proposed Order, forward to co-counsel; TCW co-counsel; Draft LT Court	\$ 3,400.00
5/5/2007	8.5	WWP	Hearing Preparation; Email and TCW associate attorney	\$ 3,400.00
5/5/2007	3.5	DJC	Email to co-counsel; TCW co-counsel regarding preparation for hearing and LR	\$ 1,400.00
5/6/2007	8.5	WWP	Hearing Preparation; Email from associate attorney regarding same	\$ 3,400.00
5/6/2007	0.7	WWP	Email to co-counsel regarding hearing	\$ 280.00
5/7/2007	12.0	WWP	Prepare for and attend hearing; review opposition, deal with media inquiries; attend hearing; Fax to associate.	\$ 4,800.00
5/7/2007	6.0	DJC	TCW attorney WWP regarding upcoming hearing; Fax from WWP	\$ 2,400.00
5/8/2007	3.5	WWP	Multiple TCWs to attorney Daniel Culhane; Multiple TCWs to associate's and emails to and from associates; Respond to media inquiries	\$ 1,400.00
5/8/2007	8.5	DJC	Multiple TCWs co-counsel	\$ 3,400.00
5/9/2007	7.5	WWP	TCWs to associates; review email from the court; Respond to media inquiries	\$ 3,000.00

Date	Hours	Attorney	Description	Amount
5/9/2007	2.5	DJC	TCWs co-counsel; review email from the court	\$ 1,000.00
5/10/2007	3.5	DJC	Review request for consideration; TCW co-counsel regarding same	\$ 1,400.00
5/10/2007	6.5	WWP	Email from associate; Review request for reconsideration and respond to media inquiries; TCW associate attorney	\$ 2,600.00
5/14/2007	7.5	WWP	Email to and from associates multiple faxes to attorney's; Respond to Median inqueires	\$ 3,000.00
5/14/2007	3.2	DJC	Emails from and to co-counsel; Faxes to and from co-counsel	\$ 1,280.00
5/15/2007	3.5	WWP	Email to associates; Respond to media inquiries	\$ 1,400.00
5/15/2007	1.5	DJC	Emails from attorney WWP regarding status	\$ 600.00
5/16/2007	0.3	DJC	Emails to co-counsel	\$ 120.00
5/16/2007	9.5	WWP	Multiple emails from and to and TCW associate attorneys; respond to media inquiries	\$ 3,800.00
5/17/2007	1.2	DJC	Emails and TCW from and to co-counsel	\$ 480.00
5/17/2007	10.5	WWP	Multiple email to associates; TCW regarding same and LF associate; Respond to media inquiries	\$ 4,200.00
5/18/2007	8.3	DJC	Taylor Correspondance and Draft motion; Email to co-counsel regarding same	\$ 3,320.00
5/18/2007	13.5	WWP	Email from associate; LR and draft motion for Preliminary Injunction; address media inquiries	\$ 5,400.00
5/18/2007	8.5	DJC	Emails to and from co-counsel; Legal research and revise motion for Preliminary Injunction	\$ 3,400.00
5/19/2007	7.5	WWP		\$ 3,000.00
5/19/2007	7.5	DJC	Legal research and revise Motion for Preliminary Injunction	\$ 3,000.00
5/20/2007	8.5	DJC	Email to co-counsel; Taylor Correspondance and Draft motion	\$ 3,400.00
5/20/2007	6.9	WWP	Taylor Correspondance and Draft motion for Preliminary Injunction; address media inquiries; Email from associate attorney	\$ 2,760.00
5/21/2007	5.5	DJC	TCW co-counsel; Draft motion for Preliminary Injunction	\$ 2,200.00
5/21/2007	2.5	WWP	Taylor Correspondance and Draft motion for Preliminary Injunction; address media inquiries; TCW associate attorney	\$ 1,000.00
5/22/2007	5.5	DJC	Taylor Correspondance and Draft; TCW co-	\$ 2,200.00

Date	Hours	Attorney	Description	Amount
			counsel.	
5/22/2007	8.5	WWP	Taylor Correspondance and Draft; TCWs to associates; Respond to media inquiries	\$ 3,400.00
5/23/2007	2.5	WWP	Emails from and to and TCW associate attorney; continue LR and draft motion for Preliminary Injunction; address media inquiries	\$ 1,000.00
5/23/2007	8.5	DJC	Email to co-counsel; LR and draft motion for Preliminary Injunction	\$ 3,400.00
5/24/2007	2.2	WWP	Email to associate; LR and continue draft motion for Preliminary Injunction	\$ 880.00
5/24/2007	8.9	DJC	Continue LR and draft motion for Preliminary Injunction; Email to co-counsel regarding same	\$ 3,560.00
5/25/2007	2.5	WWP	Research and Pleading.	\$ 1,000.00
5/26/2007	6.5	DJC	TCW co-counsel; Review Opposition	\$ 2,600.00
5/26/2007	8.5	WWP	TCW associate attorney; Review and LR of Opposition	\$ 3,400.00
5/27/2007	5.5	DJC	TCW co-counsel; Review Opposition	\$ 2,200.00
5/27/2007	7.5	WWP	TCW associate attorney; Review and LR of Opposition	\$ 3,000.00
5/28/2007	9.0	DJC	LR and preparation of Reply	\$ 3,600.00
5/28/2007	12.5	WWP	LR and preparation of Reply, and address media.	\$ 5,000.00
5/29/2007	12.5	WWP	Correction of Draft, TCW associate; Review defendant's objections; prepare for and attend hearing; Address media inquiries	\$ 5,000.00
5/29/2007	9.5	DJC	TCW co-counsel regarding upcoming hearing; Review Objections; LR	\$ 3,800.00
5/30/2007	8.5	WWP	TCWs associate attorney; Field Calls and emails to co-counsel; Answer media inquiries	\$ 3,400.00
5/30/2007	4.0	DJC	TCWs co-counsel regarding update and possible next steps	\$ 1,600.00
6/1/2007	12.5	WWP	LR and draft Motion to Reinstate TRO; Address media inquiries	\$ 5,000.00
6/1/2007	12.5	DJC	LR and draft Motion to Reinstate TRO	\$ 5,000.00
6/4/2007	9.5	WWP	Letter received from associate; Address media; Review Order from Court;	\$ 3,800.00
6/4/2007	9.0	DJC	LT co-counsel; TCW co-counsel regarding injunction	\$ 3,600.00

Date	Hours	Attorney	Description	Amount
6/7/2007	7.5	WWP	Faxes to associate attorney; Emails from and to associates; Address media inquiries	\$ 3,000.00
6/7/2007	4.5	DJC	Review faxes from co-counsel; and TCW co-counsel regarding same	\$ 1,800.00
6/8/2007	6.5	WWP	Email to and from associate; Address media inquiries	\$ 2,600.00
6/8/2007	1.5	DJC	Emails from and to co-counsel	\$ 600.00
6/12/2007	7.5	WWP	Email from associate; Address media inquiries	\$ 3,000.00
6/12/2007	5.5	DJC	Emails to co-counsel	\$ 2,200.00
6/13/2007	7.5	WWP	Email from associate; Address media inquiries	\$ 3,000.00
6/13/2007	2.0	DJC	Emails to co-counsel regarding Electronic Filing.	\$ 800.00
6/15/2007	6.5	WWP	Email to and from associates; Address media inquiries	\$ 2,600.00
6/15/2007	2.0	DJC	Emails from and to co-counsel	\$ 800.00
6/17/2007	7.5	WWP	TCW's associates and clients; Address media inquiries	\$ 3,000.00
6/17/2007	7.5	DJC	TCW co-counsel, Assist co-counsel WWP	\$ 3,000.00
6/18/2007	8.5	WWP	Email to associate; Address media inquiries; Travel to and from meeting with LA Times ; TCW attorney Daniel Culhane regarding pleadings TCW Gary Fontana regarding same	\$ 3,400.00
6/18/2007	2.0	DJC	Email from co-counsel; Review same	\$ 800.00
6/19/2007	8.5	WWP	Fax to attorney Dan Culhane; Address media inquiries; Emails and fax to David Gerard	\$ 3,400.00
6/19/2007	5.5	DJC	Email from co-counsel; Review same; TT David Gerard	\$ 2,200.00
7/2/2007	1.0	DJC	TCW co-counsel.	\$ 400.00
7/2/2007	1.0	WWP	TCW co-counsel.	\$ 400.00
7/3/2007	1.0	DJC	TCW co-counsel.	\$ 400.00
7/3/2007	1.0	WWP	TCW co-counsel.	\$ 400.00
7/4/2007	1.0	DJC	TCW co-counsel.	\$ 400.00
7/4/2007	1.0	WWP	TCW co-counsel.	\$ 400.00
7/5/2007	1.0	DJC	TCW co-counsel.	\$ 400.00
7/5/2007	1.0	WWP	TCW co-counsel.	\$ 400.00
7/6/2007	1.0	DJC	TCW co-counsel.	\$ 400.00
7/6/2007	1.0	WWP	TCW co-counsel.	\$ 400.00
7/7/2007	1.0	DJC	TCW co-counsel.	\$ 400.00
8/14/2007	1.0	WWP	TCW Gary Kesselmen regarding status	\$ 400.00

Date	Hours	Attorney	Description	Amount
8/16/2007	9.5	WWP	Legal research and review Motion re Contempt; TCW Gary Kesselmen; TCW attorney DJC and California Legislature	\$ 3,800.00
8/16/2007	8.0	DJC	Draft Motion re Contempt; Forward same to WWP	\$ 3,200.00
8/18/2007	3.0	WWP	Prepare for Monday's Hearing; LR regarding same	\$ 1,200.00
8/19/2007	2.5	WWP	Prepare for Monday's Hearing, review cases and statutes	\$ 1,000.00
9/7/2007	3.5	WWP	Review Motion to lift injunction and accompanying documents	\$ 1,400.00
9/9/2007	3.8	WWP	Revise Memorandum of Points and Authorities for Motion for Interim Fee Award	\$ 1,520.00
9/10/2007	8.0	DJC	Draft Declaration and Pleading; Emails from associate attorney	\$ 3,200.00
9/10/2007	8.5	WWP	Begin Preparation of Motion for Fee Award and supporting declarations and exhibits; Emails to and from and TCW attorney DJC regarding same	\$ 3,400.00
9/12/2007	8.0	DJC	Revise Memorandum of Points and Authorities for Motion for Interim Fee Award forward same to WWP	\$ 3,200.00
9/12/2007	8.5	WWP	Review and revise Memorandum of Points and Authorities for Motion for Interim Fee Award from DJC	\$ 3,400.00
9/13/2007	8.0	DJC	Legal research and revise Motion for Fee Award; TCW and emails to and from WWP regarding same	\$ 3,200.00
9/13/2007	8.5	WWP	Revise Memorandum of Points and Authorities for Motion for Interim Fee Award; TCW and emails from and to DJC regarding same	\$ 3,400.00
9/14/2007	8.5	WWP	Prepare Exhibits for the Declaration for the Motion for Fee Award; TCW Daniel Culhane regarding same	\$ 3,400.00
9/14/2007	4.0	DJC	TCW WWP regarding status of Motion; Discussed strategy and planning.	\$ 1,600.00
9/15/2007	8.5	WWP	Prepare Declaration for Motion for Fee Award; Prepare Invoice	\$ 3,400.00
9/15/2007	8.5	DJC	Review Declaration for Motion for Fee Award from WWP; Assist in preparation of Invoice	\$ 3,400.00
9/16/2007	6.5	WWP	Prepare Motion for Fee Award and supporting	\$ 2,600.00

Date	Hours	Attorney	Description	Amount
9/16/2007	6.5	DJC	documents Assist in preparation of Motion for Fee Award and supporting documents; TCW WWP regarding same	\$ 2,600.00
9/17/2007	8.5	WWP	Prepare Motion for Fee Award and supporting documents	\$ 3,400.00
9/17/2007	8.5	DJC	Assist in preparation of Motion for Fee Award and supporting documents; TCW WWP regarding same	\$ 3,400.00
9/18/2007	10.5	WWP	Finalize Motion for Fee Award and supporting documents	\$ 4,200.00
9/18/2007	10.5	DJC	Assist and finalize preparation of Motion for Fee Award and supporting documents; TCW WWP regarding same	\$ 4,200.00
Total Senior Attorney Billable Hours (6660.8 x \$400)				\$ 2,700,348.70

Costs:

Description	DJC	WWP	Total
Airline Ticket	\$350.60	\$6,641.00	\$6,991.60
Hotel Cost	\$1,133.90	\$4,041.11	\$5,175.01
Gas	\$34.10	170.42	\$204.52
Car Rental	\$250.40	54.04	\$304.44
Meals	\$131.24	\$1,601.43	\$1,732.67
Parking	\$54.00	\$313.00	\$367.00
Mileage	N/A	\$1,942.97	\$1,942.97
Taxi-Cab	N/A	\$353.82	\$353.82
Copy cost	N/A	\$5,496.51	\$5,496.51
Faxes	N/A	\$7,752.00	\$7,752.00
Bridge Tolls	N/A	\$68.50	\$68.50
Computer Fees	N/A	\$550.00	\$550.00
Filing Fees	N/A	\$635.00	\$635.00
Postage	N/A	\$300.73	\$300.73
LexisNexis	N/A	\$2,538.33	\$2,538.33
Courier Fees	N/A	\$330.25	\$330.25
Transmision of Record	N/A	\$165.60	\$165.60
Court Reporter Fee	N/A	\$330.41	\$330.41
Consultant Fees	N/A	\$2,625.00	\$2,625.00
FedEx Fees	N/A	\$275.34	\$275.34
Total		\$38,139.70	

Total due	\$2,738,488.40
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Exhibit B

Declaration of Robert Huarte dated June 26, 2006

THE LAW OFFICES OF
William W. Palmer
1241 Carter Road - Sacramento - California - 95864
TELEPHONE (916) 972-0761

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT

**STEVE WESTLY, STATE CONTROLLER AND
RICHARD J. CHIVARO,**

Petitioners,

v.

**SUPERIOR COURT OF CALIFORNIA, COUNTY
OF SACRAMENTO,**

Respondents.

TRUST REALTY PARTNERS,

Real Party in Interest.

I, Robert Huarte, declare as follows:

1. I am the Chief of the Division of Collections in the Office of the Controller for the State of California. I am submitting this declaration in support of Petitioners Steve Westly, State Controller, and Richard J. Chivaro's Petition for Writ of Mandate, Prohibition, or Other Appropriate Relief. I have personal knowledge of all facts set forth in this declaration and, if called as a witness, I could and would testify competently thereto.

2. I have been employed by the State Controller's Office since May 2000, and have been the Chief of the Division of Collections since January 2003. As Division Chief, I am responsible for the overall operations of the Division of Collections. Among other things, the Division of Collections is responsible for administering California's unclaimed property system. I am extremely familiar with the Unclaimed Property Law ("UPL"), how property

is reported to the state, how claims for the return of unclaimed property are processed, and with the official records of the Office of the Controller relating to the escheat of property to the State pursuant to the UPL. In addition, as part of my job duties, I am required to be familiar with the official records of the Office of the Controller relating to the escheat of property to the State pursuant to California's Unclaimed Property Law.

3. I have reviewed the Order on Plaintiff's Motion for Summary Judgment, etc., (the "Order") that has been entered in this action. I am also aware that a Notice of Appeal has been filed in this action. As described below, the Order would dramatically affect the Controller's Office's administration of the Unclaimed Property system.

Sale of Unclaimed Property

4. As required by the Unclaimed Property Law, the Controller's Office sells securities that have escheated within 30 days of receipt. The prompt sale of securities is intended to carry out the intent of the UPL by liquidating securities and depositing the proceeds into the Abandoned Property Account and then into the General Fund. It is unclear whether the Order requires the State Controller to cease sales of securities. If the Order requires the Controller to halt such sales, there will be a detriment to both the State and owners of unclaimed property. The State will be harmed because it will be unable to use escheated funds for General Fund purposes; and owners will be harmed because while the prompt sale of securities protects owners from unpredictable changes in the stock market; delaying the sale of securities increases the exposure to market fluctuations.

5. As part of administering the Unclaimed Property Law, the State Controller's Office holds periodic live auctions and weekly on-line auctions of unclaimed property. A live auction had previously been scheduled to be held on May 25th and May 26th. Although it is unclear whether or not the securities

sales and auctions fall within the scope of the Order, in an abundance of caution, the State Controller's Office has ceased its sale of escheated securities, and its live and on-line auctions. The State Controller's website (<http://www.sco.ca.gov/col/ucp/auction/index.shtml>) has been updated to provide the following statement: "Welcome to the Unclaimed Property On-line Auction. At this time, there are no items being offered for sale. We expect to resume on-line sales in the near future."

Notice to Owners of Unclaimed Property

6. Under California's unclaimed property system, institutions and others who hold property (known as "holders") whose owners cannot be found or are unknown are required to transfer that property to the State when conditions under which property becomes subject to escheat are met. Prior to transferring the property, holders must make efforts to contact the owners to advise them that their property will escheat to the State unless the owner contacts the holder. If the holder's attempts to locate the owner fail, then the holder must include the property on a "holder's report" filed by November 1 of each year pursuant to Code of Civil Procedure section 1530(d). The Controller's Office receives approximately 13,000 holders' reports every year, many of them containing the names of thousands of owners. A holder's report must be made on a form approved by the Controller and must contain the name, if known, and the last known address of each owner of property worth \$50 or more, as required by section 1530(b)(1). If the holder's report includes a social security number for the owner, the Controller asks the Franchise Tax Board to provide a current address on the basis of that number. If the address differs from that given for the owner on the holder's report, the Controller mails a notice to the owner at the address provided by the Franchise Tax Board pursuant to section 1531(d).

7. In the current fiscal year, the Controller's Office has sent

approximately 357,000 direct mail notices to owners for whom it was able to obtain an address different from the one on the holder's report.

8. The Controller's Office also publishes the advertisements required by section 1531 of the California Code of Civil Procedure in 42 newspapers, including foreign language publications, throughout the state. These newspapers have a combined circulation of more than 5.4 million readers. In addition to the language required by section 1531, the advertisements inform the public that the Controller's Office has received \$4.8 billion in unclaimed property belonging to over 7.6 million individuals and companies and that the money is waiting to be claimed by its rightful owners. The advertisements invite readers to search the Controller's website at <http://www.sco.ca.gov>, which allows owners to search for property and initiate a claim to recover their property. From July 2005 to June 2006, the unclaimed property website received a total of 898,685,229 page views. The advertisement also invites readers to call a free telephone number between 8:00 a.m. and 5:00 p.m. Monday through Friday. The advertisements provide a separate telephone number for the deaf or hearing impaired and the address to which readers may send written inquiries.

9. The State Controller's Office does not presently have the ability to provide notice in addition to that which is required by the Unclaimed Property Law (described above). If additional notice is to be provided, a system will need to be developed in order to identify additional addresses and generate notices. Significant development tasks and costs will be incurred for the Controller's Office to modify its computer systems to provide additional forms of notice. This would require a significant reallocation of staff and resources, which would in turn affect the Controller's Office's ability to carry out other responsibilities, including processing claims for unclaimed property.

10. It is unclear what steps the State Controller's office is required to

take pursuant to the Order in order to provide additional notice to owners. As described above, holder's reports list last known addresses for the reported owners. However, property is reported only after the holder has notified the owner (at their last known address) that their property is about to escheat to the State unless the owner takes some action to show a continuing interest in the property (see, Code of Civil Procedure sections 1513.5, 1516, and 1520). Thus, since the holder has already unsuccessfully attempted to contact the owner at his or her last known address, it would not be effective for the State Controller to send additional notice to a reported owner's last known address. Thus, whenever a holder's report provides a social security number, the Controller mails a notice to the owner at the address listed with the Franchise Tax Board. Likewise, it is also not effective to publish notice in a newspaper in the county of the owner's last known address. There is no statewide newspaper of general circulation and, thus, as described above, the Controller publishes notice in dozens of newspapers throughout California and has a website that is available by any person, at any time. Providing any other type of notice will require the implementation of extensive modifications to the Controller's processing systems. For example, holder's reports do not list driver's license information for reported owners and, thus, it would be difficult, if not impossible, for the Controller's Office to conduct any meaningful search of DMV records.

11. In addition, the claim at issue in this case provides another example of why it is not efficacious to provide notice that is not required by the UPL. In this case, the underlying claim was reported in October 1996 in the name of "August Income Growth Fund," not Trust Realty Partners. Because this claim involved bankruptcy issues, competing claimants, and several successors to August Income Growth Fund, mailing a notice in 1996 to August Income Growth Fund would not likely have reached Trust Realty Partners.

12.

Interest on Unclaimed Property

13. When escheated property is reported and transmitted to the State Controller's Office, the property is assigned a "Property Identification" number. Property Identification numbers are often referred to as "Controller's Account" numbers. Property Identification numbers are used in order to account for and track unclaimed property that is received, claimed and disbursed. Much like a filing system, Property Identification numbers are a mechanism for the Controller's Office to keep track of the amount of property reported, the holder that reported the property, the name of the last known owner as shown on the holder's records, and when the property was reported, when the property was claimed, and the name of the claimant(s).

14. Once unclaimed property has been reported to the State, it is not maintained in any type of segregated account, private account or interest-bearing account. The UPL does not require the State Controller to invest escheated funds nor to ensure that escheated property will generate interest. Instead, when property is reported and remitted to the State Controller's Office, the UPL requires that all money received be deposited in the Abandoned Property Account within the Unclaimed Property Fund. The Abandoned Property Account is an operations-type account, and money in the Abandoned Property Account is used to pay claims during a month. The Abandoned Property Account is not a trust account or an interest-bearing account.

15. The UPL also requires the Controller's Office to, at least once a month, transfer all money in the Abandoned Property Account in excess of \$50,000 to the General Fund. Typically, at the end of each month, money in the Abandoned Property Account, in excess of an amount needed to pay claims during that month, is transferred to the General Fund. Once transferred to the General Fund, the Abandoned Property Account funds are commingled with other General Fund moneys.

16. Presently, there are over \$4.8 billion in Unclaimed Property accounts with over 7.6 million individual and business owners as reported by the holders. During the 2004-2005 fiscal year, the SCO paid 239,202 claims for \$238.5 million.

17. Previously, the Unclaimed Property Law authorized the State Controller to pay interest on paid claims. When the State Controller was authorized to pay interest, the authorization was to pay interest at the rate in effect when the claim was paid. For example, AB 3000, which took effect on September 30, 2002, authorized the Controller to pay simple, not compound, "interest at the rate of 5 percent or the bond equivalent rate of 13-week United States Treasury bills, whichever [was] lower, to the amount of any claim paid the owner under this section for the period the property was on deposit in the Unclaimed Property Fund." And prior to September 30, 2002, the State Controller was authorized by AB 698 to pay interest "at the rate of 5% compounded annually or the current interest rate received upon deposits held in the Pooled Money Investment Account, whichever is lower, to the amount of any claim paid the owner under this section for the period the property was on deposit in the Unclaimed Property Fund." Currently, section 1540(c) provides that the Controller has no authority to pay interest on claims: "No interest shall be payable on any claim paid under this chapter." Section 57 of AB 1756 provided that the "no interest" rule applied to all claims, including pending claims: "The changes made by this Act to Section 1540, 1541, and 1542 of the Code of Civil Procedure shall apply to any claims for which the Controller has not made a decision by the earlier of July 1, 2003, or the effective date of this Act [August 11, 2003]."

18. As described above, Property Identification/Controller's Account numbers are used as a tracking mechanism, but escheated property is not maintained in a segregated account like a private bank account. Instead, nearly

all escheated funds are commingled with other General Fund moneys. The State Controller's Office has never "posted" interest to Controller's Accounts. Instead, prior to the enactment of AB 1756, if an amount of interest was payable, it was payable based on the rate in effect at the time the claim was paid. For example, if property had escheated in 1980 and an owner's claim was submitted and paid on October 1, 2002, interest was payable at the rate which took effect on September 30, 2002 pursuant to AB 3000 (i.e., interest was payable "at the rate of 5 percent or the bond equivalent rate of 13-week U.S Treasury bills, whichever [was] lower, to the amount of any claim paid ... for the period the property was on deposit in the Unclaimed Property Fund.") Thus, the approved claim would not have had interest payable based on the different interest rates that had been in effect between 1980 and October 2002.

19. The Order is unclear with respect to what actions the Controller's Office is to take regarding the payment of interest on approved claims. Property that has escheated by operation of law has been reported to the State since the UPL took effect in January 1960. Since that time, the UPL has provided for the payment of various interest rates at different times, and for no interest at the present time. It is unclear how the Controller's Office is to calculate interest: e.g., whether it is to be based on the rate in effect when the property was reported, when a claim was filed, or the rates in effect at different times while the property is in the State's custody.

20. The State Controller's Office does not presently have the ability to calculate and post interest to individual Controller's Accounts based on varying rates of interest that are no longer in effect. In order to calculate and post interest to individual claims that have been approved and paid since July 1, 2003, the Controller's Office would have to institute significant modifications to the claims processing systems. And if the Court's order is interpreted to require the State Controller to treat all Controller's Accounts as

if interest were accruing during the entire time the property has been in the State's custody, massive systems modifications would be required. As mentioned above, the State has received over \$4.8 billion of unclaimed property with over 7.6 million reported owners. Since most abandoned property is never claimed, the Controller's Office would be required to undertake massive changes to the manner in which it administers the Unclaimed Property Law to treat Controller's Accounts as if they were segregated bank accounts. The Division of Collections does not have staff available to implement changes that would be necessary to calculate interest on Controller's Accounts; and the Division does not presently have authorization to hire additional employees. Consequently, any systems modifications that may be required would require Division staff to be reassigned from other tasks, e.g., processing claims.

Regulations

21. The Order also requires the Controller's Office to promulgate regulations "within sixty (60) days setting forth the process by which Owners of private property held in custodial trust by the Controller pursuant to the Unclaimed Property Law may obtain the return of their property" in "strict compliance with the Administrative Procedure Act." Unless the regulations were adopted as emergency regulations, however, 60 days does not permit sufficient time to comply with the requirements of the Administrative Procedure Act, including publication in the Notice Registry, a 45-day public comment period, and 30 working days for the Office of Administrative Law to review the proposed the regulations.

22. Furthermore, at the direction of the Legislature, the Controller's Office has previously adopted "guidelines" for claimants of unclaimed property. Code of Civil Procedure section 1540 (as amended by Chapter 1029, section 1, of the Statutes of 1998 [effective Jan. 1, 1999]), required the Controller to "adopt guidelines and forms" to assist owners in filing claims for the return of

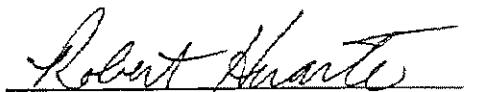
abandoned property (see Code of Civil Procedure section 1540(e)). In 1999, following public hearings and the taking of comments, the Controller adopted Guidelines. A true and correct copy of the Notice of Public Hearing dated June 8, 1999, is attached hereto as Exhibit "1." And the State Controller's Office continues to publish various guidelines and forms that provide specific instructions to assist owners in filing claims for the return of property. For example, in September 2003, State Controller Westly published the current version of "*Guidelines for Claiming Unclaimed Property*," which discusses topic such as the "Claims Process," and "Required Documentation." *Guidelines for Claiming Unclaimed Property* also advises people that, "[b]eginning in August of 2003, the Unclaimed Property Law no longer provides for interest to be paid on any claims. *Guidelines for Claiming Unclaimed Property* is available to the public at the Bureau of Unclaimed Property, through the State Controller's website (<http://www.sco.ca.gov/col/ucp/lawregs/claiming.pdf>), and is also made available to anyone who requests information regarding the claims process under the UPL. In addition, the State Controller's Office also gives instructions to assist owners with filing claims for the return of property by making the current version of the Unclaimed Property Law and Regulations available to the public. The State Controller's website (<http://www.sco.ca.gov/col/ucp/faq/index.shtml>) also lists the answers to several "Frequently Asked Questions About Unclaimed Property." The same or similar information has been available either in hard copy or on the State Controller's website since 2000.

Trust Realty Claim

23. In September 2005, I submitted a declaration in support of Defendants' Motion for Summary Judgment Or, in the Alternative, for Summary Adjudication. A true and correct copy of my September 2005

declaration is attached hereto as Exhibit "2." Paragraphs 8-30 of this declaration describe in detail the extremely complicated nature of the claim that is the subject of Trust Realty's lawsuit. As described in my declaration, the claim (Property Identification Number 012083411), that is the subject of this lawsuit involved bankruptcy issues, several competing claimants, and several successors to the reported owner (August Income Growth Fund). I am not aware of another claim that has been processed during my tenure at the Controller's Office that was as complicated as the claim at issue in this lawsuit.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on June 12, 2006, at Sacramento, California.



Robert Huarte
Chief, Division of Collections
California State Controller's Office

I **DECLARATION OF SERVICE**

2 Case Name: *Steve Westly, State Controller and Richard J. Chivaro v. Superior Court*
of California, County of Sacramento

3 Court of Appeal Case No.: _____
Sacramento County Superior Court Case No.: 04AS02522

4 I declare: I am employed in the County of Sacramento, California. I am 18 years of age
5 or older and not a party to the within entitled cause; my business address is 1300 L Street,
Sacramento, California.

6 On June 12, 2006, I served the attached

7 **DECLARATION OF ROBERT HUARTE IN SUPPORT OF PETITION FOR WRIT OF
8 MANDATE, PROHIBITION OR OTHER APPROPRIATE RELIEF; EMERGENCY
9 STAY REQUESTED OF TRIAL COURT ACTION BY JUNE 21, 2006**

10 in said cause, by placing a true copy thereof enclosed in a sealed envelope and served as follows:

11 _____ United States mail by placing such envelope(s) with postage thereon fully prepaid in the
12 designated area for outgoing mail in accordance with this office's practice, whereby the
mail is deposited in a United States mailbox in the City of Sacramento, California, after
the close of the day's business

13 _____ California Overnight Service (Overnight Courier)

14 _____ Facsimile at the following Number:

15 XX Personal Service, *via Capitol Couriers*, at the below address(es), at the following time(s):
→ A.M./P.M.
16 to the parties addressed as follows:

17 William W. Palmer, Esq.
Law Offices of William W. Palmer
1241 Carter Road
Sacramento, CA 95864
(1 copy)

20 Sacramento County Superior Court
Attention: The Honorable Shelleyanne W.L. Chang
21 Department 54
800 Ninth Street
22 Sacramento, CA 95814
(1 copy)

23 Sacramento County Superior Court
Attention: The Honorable Roland L. Candee
24 Department 47
720 Ninth Street
Sacramento, CA 95814
(1 copy)

27 I declare under penalty of perjury under the laws of the State of California, that the
28 foregoing is true and correct, and that this declaration was executed at Sacramento, California on
June 12, 2006.


CYNTHIA FULKERSON

Exhibit C

J. Chiang, "State Controller on Asset Seizures," Orange County Register (July 29, 2007)

THE LAW OFFICES OF
William W. Palmer
Carter Road - Sacramento - California - 95864
TELEPHONE (916) 972-4761

This is a printer-friendly version. The navigation and other unnecessary elements have been removed.

Sunday, July 29, 2007

State controller on asset seizures

Reader Rebuttal

By John Chiang
California state controller

State Sen. Tom McClintock well knows that the problems plaguing the state's Unclaimed Property Program stem from statutory shackles he and his legislative colleagues have approved over the past 20 years to prevent Californians from being notified that their lost, forgotten and abandoned property has been sent to the state. Rather than throw rhetorical bombs, as he did in the California Focus column, "How Californians are escheated" [Opinion, July 18], I invite him to roll up his sleeves and work with current legislative leaders and me to fix this mess.

Enacted in 1959, the original intent of the state's unclaimed property law was to safeguard private property from being lost during mergers or bankruptcies, drawn down by "service" or "storage" fees, or simply used by private interests for personal gain – either through an unwillingness to find the owner or just plain greed.

But during the 1980s and 1990s, the Legislature ramped up restrictive laws in order to maximize the use of the revenue to bridge budgetary shortfalls and fund programs. Not only has the Legislature not weaned itself off this misguided dependency, it has increasingly coveted these funds. As a result, the Legislature – where Sen. McClintock has served over 20 years – and governors of both parties have enacted a series of laws that have sharply limited the ability to provide notice and reunite people with their property.

Consider: Today, the controller is legally barred from contacting the owners of what effectively amounts to 80 percent of all accounts we receive. That means, out of 800,000 properties we expect to receive this year, the owners of 650,000 will be left out in the cold. Other laws have further dismantled the program by prohibiting the state from paying interest on claims; increasing from 90 days to 180 days the amount of time to process claims; and shortening the time, from 15 years to three years, a business must hold the customer's property before sending it to the state.

No, Sen. McClintock, I wasn't "shocked" when I took office six months ago. I was outraged – outraged that a program that I believe should be safeguarding lost property had been perverted by 20 years of shortsighted lawmaking into becoming the very thing it was designed to protect against.

That's why, upon taking office six months ago, I immediately initiated a policy prohibiting my office from selling, destroying or converting to cash any property until the owners have been notified and are given an opportunity to claim what is rightfully theirs. I worked with legislative leaders to negotiate reforms through the budget, and drafted and sponsored comprehensive reform legislation (Senate Bill 919, by Sen. Mike Machado) to increase penalties for businesses that fail to protect their customers' property; require written notification to all owners before their property is transferred to the state; restore paying interest on claims; reduce the period to consider claims to

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no more than 90 days; and authorize my office to aggressively find property owners by using Internet search engines, commercial databases and public agency records.

My reform package also will require the state to safeguard family heirlooms, photographs, and other keepsakes that, while having no "commercial" value, are priceless to their owners who must be given the appropriate notification and opportunity to claim them.

Sen. McClintock's proposed solution does nothing to reunite 8.2 million owners with their lost property. It merely requires businesses to hold unclaimed property for an extended period of time. If Sen. McClintock is sincere about his contempt for the current condition of the Unclaimed Property Program, I invite him to put down his incendiary rhetoric and join me and an increasing number of legislators in fighting to reverse these bad laws so we can quickly reunite people with their property.

What's your opinion?

Want to comment on what you've just read? Fill in the form below.
Your comments will be considered for publication online or as a letter to the editor in The Orange County Register.

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CITY OF

E-MAIL ADDRESS:

RESIDENCE:

SUBJECT:

COMMENT:

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Exhibit D

M. Lifsher, "Lost track of those old assets? The state may have seized them," Los Angeles Times, July 9, 2007, p. A-1

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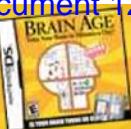
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From the Los Angeles Times

Lost track of those old assets? The state may have seized them

By Marc Lifsher
Times Staff Writer

July 9, 2007

Nearly 15 years ago, the state of California seized about \$25,000 worth of stock that Richard Valdes had set aside and forgotten about.

He's been fighting to get it back almost ever since.

Valdes' stock was in an escrow account that the state declared dormant. But no one from the government tried to contact him before the shares were taken and sold. Valdes said he was effectively robbed of stock that would now be worth at least \$100,000.

"It's unbelievable to me that they can destroy records and sell your property without notifying you," Valdes, 71, said. "I've lived in the same Newport Beach area for 50 years. It's very easy to get ahold of me."

Valdes is one of millions of people who have seen their financial accounts and safe-deposit boxes drained under the state's "unclaimed property" law, which generates about \$400 million in annual revenue for Sacramento, according to the state controller's office.

Last month, however, a federal judge slapped the state with an injunction that at least temporarily halted the seizure of assets. U.S. District Court Judge William B. Shubb said the state wasn't giving "constitutionally adequate notice before accepting or taking title to property."

Valdes and others who have sued the state claim that the government doesn't even try to find people who have misplaced or forgotten about their assets.

Even worse, they say, is that the state contracts with financial "bounty hunters" — auditors who comb through records at banks, escrow companies and insurance firms and elsewhere to find dormant accounts. These companies are typically paid 6% to 12% of what they find, court and state records show.

People who believe the state has taken their property can file a claim to regain it at any time. But many do not even know the state has their money.

States should "be engaged in meaningful, robust outreach efforts to locate owners," said Debbie Zumoff of Keane Organization Inc., whose consulting firm advises companies on their unclaimed property obligations.

Instead, over the years California has sharply curtailed efforts to find people before selling off their property.

Until the mid-1980s, the state controller ran a "locator unit" that searched telephone directories for property owners and published detailed lists of names from unclaimed accounts in newspapers around the state.

But in recent years, as the state came under pressure to balance its budget, efforts to find owners were gradually dismantled.

The locator unit was disbanded around 1985, and through the 1990s and the early part of this decade the Legislature steadily reduced the amount of money the controller could spend on notifying owners of unclaimed assets. In 2003, it eliminated the state's obligation to pay interest on new claims from property holders.

Notices to the public were eventually restricted to generalized newspaper advertisements telling people to contact the controller if they thought they had unclaimed property.

"It became unrestrained looting," said state Sen. Tom McClintock (R-Thousand Oaks).

Californians were also given less time to claim their property before it was seized by the state. In 1977, the so-called escheat period — the amount of time an account could be inactive before being turned over to the state — was reduced from 15 to seven years. It is now three years.

The chain of events that led Valdes to file suit began in 1976, when he sold his Costa Mesa yacht business to Whittaker Corp. for about \$500,000. He was paid in Whittaker stock and stayed on with the company.

About 5% of the shares, then worth about \$25,000, was set aside in an escrow account as a security that the new owners would be able to collect outstanding debts.

Valdes says he soon lost track of these set-aside shares. He didn't realize that his stock was gone until 1996, when a private investigator told him that the state of California had grabbed his securities three years earlier.

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The investigator was an "heir finder," specializing in reuniting owners with their lost property for a commission.

Valdes eventually contacted Sacramento attorney William W. Palmer after reading a newspaper article about Palmer's involvement in an unclaimed property lawsuit.

Palmer subsequently launched a series of lawsuits in state and federal courts on behalf of Valdes and at least a dozen other property owners, losing many of them.

But on April 30, the U.S. 9th Circuit Court of Appeals reversed a federal district court decision, sending the case back to Shubb with instructions to grant a preliminary injunction that temporarily halted the state's sale of unclaimed property. The appeals court noted that citizens have a due-process right to be notified of the possible loss of their property.

The reversal buttressed the legal argument that the unclaimed property law "wasn't designed to be a revenue stream or a profit center," Palmer said.

The injunction sent the controller, the governor and state legislators scrambling to fill an estimated \$442-million hole in the state budget for the fiscal year that began July 1.

They also rushed to increase the controller's budget by \$8 million and hire 87 people to boost efforts to reunite owners and their property.

"I'm trying to fix this," said state Controller John Chiang. "My intent is to get the property back to its owners immediately."

Chiang said he realized there were problems with the program shortly after he took office in January. He said he was backing budget-related legislation that would send notices to owners before their property was taken.

It also would ban the sale of securities until at least 12 months after a notice is sent to their owners. And items in safe-deposit boxes of seeming sentimental value, but without commercial value, would be saved for at least eight months instead of being discarded.

It's unclear whether the state's plan would satisfy Shubb sufficiently for him to lift his injunction. If it doesn't, Chiang said he was ready to push for a comprehensive unclaimed property reform bill offered by Sen. Michael Machado (D-Linden) that would provide stronger protections for property owners.

"The bottom line is it's not the state's money, not the state's property," Machado said.

Meanwhile, state Sen. Dean Florez (D-Shafter) has scheduled investigative hearings in August. He said his Governmental Organization Committee would probe the controller's business dealings with private bounty hunting companies.

"It's a huge problem, and it's going to take a lot of unwinding," Florez said.

Even when the state does make amends, however, Californians can end up shortchanged.

Jo-Ann Seitzinger, another party in the federal lawsuit against the controller, says the state made no effort to find her and return 200 shares of General Electric stock.

The state seized the shares in 1994 from her husband Richard's employee stock option account, even though the Seitzingers had lived in the same Northridge home since 1974 and had filed income tax returns annually with the California Franchise Tax Board.

Jo-Ann Seitzinger said she didn't realize the stock was taken until her son, while researching the family tree on the Internet, found her name in an unclaimed property listing on the controller's website.

Eventually, after she made a claim in 2000, the state sent her a check for \$17,000 to cover the proceeds of the stock sale. She figured the stock would be worth much more than that today if she still owned it.

"You can't be lost anymore. I do probate for a living and have no problem finding heirs," Seitzinger said. "It's impossible they couldn't find Dick and Jo-Ann Seitzinger."

marc.lifsher@latimes.com

--

(INFOBOX BELOW)

Getting it back

Think the state may have your money?

California is sitting on \$5.1 billion in unclaimed property from dormant bank accounts, safe-deposit boxes and other sources.

To find out whether you are owed any of that bounty, go to the state controller's website at <http://www.sco.ca.gov> and click on the link for

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"unclaimed property."

You can also call the controller's office toll-free at (800) 992-4647.

Source: California controller's office

If you want other stories on this topic, search the Archives at latimes.com/archives.

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PARTNERS:



Exhibit E

Defendants' Memorandum in Opposition to Plaintiffs' Motion for Partial Summary Judgment, *Suever v. Westly*, No. CIV-03-00156 (E.D. Cal.) July 18, 2007

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Attorneys for Defendants
John Chiang and Richard J. Chivaro

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

AGNES SUEVER, ET AL.,) No.: C 03-00156 RS
Plaintiffs,)
vs.) **MEMORANDUM OF POINTS AND**
JOHN CHIANG, ET AL.,) **AUTHORITIES IN SUPPORT OF**
Defendants.) **DEFENDANTS' OPPOSITION TO**
) **PLAINTIFFS' MOTION FOR**
) **PARTIAL SUMMARY JUDGMENT**
)
) Hearing:
)

Date: August 8, 2007
Time: 9:30 a.m.
Dept.: 4

The Honorable Richard Seeborg

MEMORANDUM OF POINTS AND AUTHORITIES IN
SUPPORT OF DEFENDANT'S OPPOSITION TO
PLAINTIFFS' MOTION FOR PARTIAL SUMMARY
JUDGMENT – NO.: C 03-00156 RS

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7 **MISCELLANEOUS:**

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8 Federal Rules of Civil Procedure

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1 **INTRODUCTION**

2 Plaintiffs' motion for partial summary adjudication is premature, unnecessary, and
3 procedurally defective. It is premature because several of the plaintiffs have not even made themselves
4 available for deposition, thus denying defendants discovery on defenses such as statutes of limitation
5 that would defeat plaintiffs' claims. It is unnecessary because another federal court has issued a
6 preliminary injunction that enjoins the State from accepting or selling unclaimed property, the very
7 activity about which plaintiffs complain. It is procedurally defective because the "evidence" on which
8 plaintiffs rely is either irrelevant, inadmissible, or untrue (sometimes it is all of these things) and
9 because it is so internally contradictory as to defy any rational response. Worse, plaintiffs repeatedly
10 state that their motion "seeks to establish liability"¹ for alleged constitutional violations, presumably
11 for all defendants in the form of declaratory relief, despite the fact that this Court has already dismissed
12 these and other claims – twice – as barred by the Eleventh Amendment.

13 Plaintiffs' claims about the applicable law are equally problematic. First, their
14 description of the "holdings" in "three unanimous Ninth Circuit decisions" is misleading at best. The
15 *Taylor* panel's conclusion that the plaintiffs in that case were likely to succeed on the merits is not a
16 final ruling and is not binding on this Court. Second, although plaintiffs are clearly making a facial
17 challenge to California's Unclaimed Property Law, they rely entirely on highly fact-specific, as-
18 applied cases like *Jones v. Flowers*, 547 U.S. 220, 126 S. Ct. 1708 (2006). As demonstrated below,
19 the notice and interest provisions of California's Unclaimed Property Law are perfectly consistent with
20 the Supreme Court's rulings on facial challenges to unclaimed property laws.

21 Finally, genuine issues of material fact exist with respect to defendants' statute of
22 limitations defense, plaintiffs' challenge to the notice provisions, and their claims that the Controller
23 accepts property outside the scope of the UPL and has an inadequate claims process.

24 The truth is that even without defendants' Rule 56(f) objections, which defendants
25 renew here, plaintiffs have not begun to demonstrate that this case is ready for partial summary
26

27 ¹ Proposed Order Granting Pls.' Mot. for Partial Summ. J. ("Proposed Order") at 2; Mem. of P.&A. in
28 Supp. of Pls.' Mot. for Summ. J. ("Pls.' Mem.") at 2, 5.

1 judgment. Plaintiffs themselves describe their case as not yet “adequately developed to implement
2 final remedies,” and they ask the Court to “defer determination of the appropriate remedies pending the
3 completion of discovery and/or class certification on these issues.” Pls.’ Mem. at 24; Proposed
4 Order at 2. Particularly where, as here, there is already a preliminary injunction in place and the
5 Legislature is expected to amend the law as part of the state budget process, there is no justification for
6 asking this Court to rule on the constitutionality of the existing law. Instead, the Court should defer the
7 entire determination and deny plaintiffs’ motion for partial summary judgment.

8 **STATEMENT OF FACTS**

9 **A. Procedural Background**

10 Plaintiffs filed this action on January 10, 2003, asserting claims that California courts
11 had rejected in similar cases filed by counsel for plaintiffs. *See, e.g., Fong v. Westly*, 117 Cal. App. 4th
12 841, 853-55 (2004) (California’s UPL does not violate due process); *Harris v. Westly*,
13 116 Cal. App. 4th 214, 222-224 & n.16 (2004) (California’s UPL does not violate due process or
14 Takings Clause). On June 20, 2003, this Court dismissed the complaint with leave to amend on
15 Eleventh Amendment grounds, and on November 19, 2003, the Court dismissed defendants’ First
16 Amended Complaint without leave to amend on Eleventh Amendment grounds. Order Granting Defs.’
17 Mot. to Dismiss Compl. (Nov. 19, 2003) at 5-8 (“2003 Suever Order”). Plaintiffs appealed.

18 On March 29, 2005, in a similar action filed by plaintiffs’ counsel, the Ninth Circuit
19 held that the Eleventh Amendment did not bar claims for the return of plaintiffs’ property, based in
20 part on allegations that the Controller retains “some money from sales of [escheated] stock . . . in a
21 fund that she controls,” and based in part on allegations that the Controller was “violating clear
22 statutory restrictions.”² *Taylor v. Westly*, 402 F.3d 924, 930, 933-35 (9th Cir. 2005) (“*Taylor I*”).
23 *Taylor I* also affirmed plaintiffs’ ability to pursue prospective claims while holding that they cannot
24 pursue “retroactive requests for money.” *Id.* at 935. Finally, the Ninth Circuit determined that a
25 custodial escheat does not constitute a taking. *See id.* at 936. Because the *Taylor I* appeal presented a

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28 ² As plaintiffs well know, the Controller sharply disputed these allegations then, as he does now, notwithstanding plaintiffs’ misstatements to the contrary. Pls.’ Mem at 3, n.2.

1 jurisdictional question, the Ninth Circuit decided the case on the basis of allegations that the Court
2 admitted it was “in no position to assess” on the merits. *Id.* at 934. The Ninth Circuit followed with its
3 decision in this matter, *Suever v. Connell*, 439 F.3d 1142, 1143, 1147-48 (9th Cir. 2006), which
4 vacated this Court’s previous ruling on the basis of *Taylor I*, and remanded for further proceedings.
5 This decision, too, was jurisdictional and based on plaintiffs’ allegations alone. *Id.* at 1146.

6 Defendants then filed a motion for judgment on the pleadings. On November 13, 2006,
7 this Court granted the motion in part: (1) finding no basis for imposing individual liability;
8 (2) dismissing defendants who were former state officials; (3) dismissing claims founded solely on
9 state law; and (4) otherwise leaving the 2003 *Suever* Order intact except to the extent that it conflicted
10 with the Ninth Circuit’s *Suever* decision. Order on the Mot. for J. on the Pleadings (Nov. 13, 2006)
11 (“2006 *Suever* Order”). Because this Court’s 2003 *Suever* Order dismissed all claims, and the Ninth
12 Circuit resurrected only claims for the return of property and other prospective relief, this Court’s
13 2006 *Suever* Order again dismissed all other claims, including claims for declaratory relief. *Id.* at 3.

14 Meanwhile in *Taylor*, the plaintiffs appealed the Eastern District’s denial of their
15 motion for a preliminary injunction. On May 31, 2007, the Ninth Circuit reversed. *Taylor v. Westly*,
16 __ F.3d __, 2007 WL 1557611 (9th Cir. May 31, 2007) (“*Taylor II*”). In *Taylor II*, the Ninth Circuit
17 concluded, on the basis of *Jones v. Flowers*, 547 U.S. 220, 126 S. Ct. 1708 (2006), that plaintiffs were
18 likely to succeed on the merits of their due process claim, and that a preliminary injunction would
19 address any irreparable harm that might flow from California’s immediate sale of stock upon escheat.
20 2007 WL 1557611 at *2-3. The Eastern District subsequently preliminarily enjoined California from
21 accepting escheated property until the state adopts, and the court approves, regulations providing for
22 notice prior to escheat. *Taylor v. Chiang*, No. S-01-2407, 2007 WL 1628050, *3 (E.D. Cal. June 1,
23 2007) (“*Taylor III*”).³ Because the Controller cannot promulgate regulations that are contrary to
24 statute, the injunction will remain in place until the Legislature amends the statute, which it is expected
25

26 ³ On June 19, 2007, California’s Second District Court of Appeal affirmed in an unpublished decision
27 that California’s UPL does not violate the due process or taking clauses, notwithstanding *Taylor II* and
Flowers. *Porcile v. Connell*, Case No. B187092, 2007 WL 1748612, *3-4 (Cal. App. June 19, 2007).
Because the opinion is unpublished, the parties may not rely upon it. Cal. Rule of Court 8.1115(a).

1 to do as part of the state budget process. A trailer bill to the pending 2007 Budget Act would
2 substantially revise the UPL notice requirements at the heart of plaintiffs' motion for partial summary
3 judgment. Huarte Decl. in Supp. of Defs.' Opp. To Mot. For Partial S.J., ¶ 10 ("Defs.' Huarte Decl.").
4 If enacted, these changes would take effect immediately, rendering plaintiffs' motion largely moot.

5 **B. The Unclaimed Property Program**

6 The federal government, all fifty states, the District of Columbia, Puerto Rico and the
7 Virgin Islands all have unclaimed property programs that share many of the characteristics that
8 plaintiffs would have this Court enjoin.⁴ Under these laws, institutions ("holders") are required to
9 transfer property to the state once the property owners "abandon" it as defined by that state's laws.
10 Such programs generally serve at least two key purposes: (1) they allow states to try to reunite owners
11 and their lost property; and (2) they allow states to put abandoned property to use to benefit society as
12 whole rather than allowing the holder to reap a windfall from the abandoned funds. *Fong*,
13 117 Cal. App. 4th at 844; *Douglas Aircraft Co., Inc. v. Cranston*, 58 Cal. 2d 462, 463 (1962); *Bank of*
14 *Am. v. Cory*, 164 Cal. App. 3d 66, 74 (1985).

15 California has a custodial, rather than a permanent, escheat program. An owner can
16 claim his or her property at any time, regardless of how many years have passed, by providing the
17 Controller with proof of ownership. Cal. Civ. Proc. Code § 1540(a).⁵

18 Property escheats by operation of law, without the necessity for State-initiated
19 proceedings. §§ 1300(c), 1513. A holder must transfer unclaimed property to California, as opposed
20 to another state, if the owner's last known address is in California, or if the holder is domiciled in
21 California and the owner's last known address is either unknown or in a foreign country. § 1510.
22 Property is "unclaimed" when certain statutory conditions are satisfied. §§ 1511 *et. seq.* Conditions
23 vary by property type, but stock escheats if the owner has not corresponded with the holder, claimed a
24

25
26 ⁴ 1 David J. Epstein, *Unclaimed Property Laws & Reporting Forms*, 1-12, § 1.06 (2005).
27
28 ⁵ All statutory references are to the California Code of Civil Procedure unless otherwise indicated.

1 dividend or otherwise indicated an interest in the stock for three years,⁶ *and* the holder does not know
2 the owner's location at the end of the three-year period. § 1516(b). Six to twelve months before the
3 stock is subject to escheat, holders must mail notice to all stockholders with addresses in the holders'
4 records. § 1516(d). If the owner fills out a form provided by the holder and returns it to the holder, the
5 holder is deemed to know the location of the owner, and the property is not subject to escheat. *Id.* If
6 the owner does not respond, the holder transfers the property along with a report listing the owner's
7 name and the last known address, if any.⁷ §§ 1530(b)(1), 1532(a). If a holder transfers property by
8 mistake, the Controller is required to refund or redeliver the property to the holder. § 1561(b).

9 Holders must submit verifications along with their reports, stating under penalty of
10 perjury that all reported property is presumed unclaimed under the law, meaning among other things,
11 that holders do not know the whereabouts of the owners. § 1530(e). The Controller's office reviews
12 these reports upon receipt. If they are not verified, the Controller contacts the holder to secure the
13 verification. Defs.' Huarte Decl., ¶ 3.

14 The Controller then provides three additional forms of notice. First, if the holder's
15 report includes an owner's social security number, the Controller determines whether the Franchise
16 Tax Board has a different address for the owner than the address in the holder's report, and mails
17 notice to any such different address. § 1531(d); Huarte Decl. in Supp. of Pls.' Mot. For Partial S.J., ¶ 6
18 ("Pls.' Huarte Decl."). Second, the Controller's Office publishes newspaper notices, currently in
19 44 newspapers, advertising the fact that it holds unclaimed property belonging to 8.2 million owners,
20 and telling people how to reclaim their property. § 1531(a); Pls.' Huarte Decl., ¶ 8; *see also* Defs.'
21 Huarte Decl., ¶ 5. Third, the Controller maintains a website, which is advertised in the Controller's
22

23
24

⁶ Most states (twenty-seven) and the District of Columbia have three-year escheat periods. Two states
25 have seven-year escheat periods, while the remaining states have five-year escheat periods. *See*
Prinzing Decl. in Supp. of Defs.' Opp. to Pls.' Mot. for Partial Summ. J., ¶¶ 3-5 ("Prinzing Decl.").

26
27⁷ The holders' role in California is typical of their role in other states' unclaimed property programs.
All states that require direct mail notice prior to escheat – forty-four states do – give that responsibility
to holders rather than the state. *See* Prinzing Decl., ¶¶ 6-7.

1 newspaper notices, allows people to search for their property, and explains how to reclaim it.⁸ In the
2 last year, the website received more than 1 billion visits. Pls.' Huarte Decl., ¶ 8; *see also* Defs.' Huarte
3 Decl., ¶ 6.

4 Approximately 74% of the property received by the Controller each year is in the form
5 of cash, and so is never sold. Only 25% is in securities, while approximately 1% is in tangible form,
6 such as coins or stamps. Defs.' Huarte Decl., ¶ 7. Securities must be sold within two years of escheat.
7 § 1563(b). Before the *Taylor III* preliminary injunction, the Controller had implemented a policy to
8 delay such sales until at least 18 months after transfer. While the preliminary injunction is in place, the
9 Controller is not selling any property. Defs.' Huarte Decl., ¶ 9.

10 When the state receives unclaimed property, the Controller's office assigns it an
11 identification number for tracking purposes. Pls.' Huarte Decl., ¶ 13. The property is deposited into
12 the Abandoned Property Account within the Unclaimed Property Fund. § 1564(a); Pls.' Huarte Decl.,
13 ¶ 14. The Abandoned Property Account is not required by law to be, and is not, interest-bearing. Nor
14 is the unclaimed property within that fund maintained in an individually segregated account, like a
15 private bank account. Pls.' Huarte Decl., ¶ 14. Once a month, the Controller transfers all money in the
16 Abandoned Property Account not needed to pay claims that month to the General Fund. § 1564(c);
17 Pls.' Huarte Decl., ¶ 15. Once transferred, abandoned property funds are commingled with other
18 General Fund moneys. Pls.' Huarte Decl., ¶ 15. Claims are paid from the Abandoned Property
19 Account as they are processed, regardless of the date of escheat. *Id.*, ¶ 11.

20 The UPL provides that all money in the Unclaimed Property Fund is "continuously
21 appropriated to the Controller . . . for expenditure in accordance with law in carrying out and enforcing
22

23
24 ⁸ California's post-escheat notice practices are more robust than the practices in most states. Thirty-
25 four states do not impose *any* mail notice requirements on the state. Thirty-two of these states only
26 require states to provide some form of publication notice such as newspaper and/or Internet notice –
27 with or without the names of property owners – depending on the state. The other two states require
28 even less notice. *See* Prinzing Decl., ¶¶ 8-9.

29 Thirteen states and the District of Columbia require states to send notice to some or all owners at
30 addresses in the holders' reports. *See id.* at ¶¶ 10-11. None of these states, however, requires the state
31 to seek out and send mail notice to a new address for owners, as California does. *See id.*, ¶ 12.

1 the provisions of this chapter.” § 1564(b). Nevertheless, the Legislature has limited the Controller’s
2 authority to expend funds through provisions in state budget acts. Pls.’ Huarte Decl., ¶ 9. For
3 example, the 2006-2007 Budget Act limits the Controller’s authority to spend funds to provide general
4 information to the public regarding unclaimed property and limits notice efforts to those required by
5 section 1531(d). 2006 Cal. Stat. ch. 47, Provisions 1 & 5(b), Item 0840-001-001.

6 The Controller has adopted guidelines and forms to assist owners in filing claims for the
7 return of abandoned property, in compliance with section 1540. These guidelines, which were adopted
8 following public hearings, are publicly available on the Controller’s website. Pls.’ Huarte Decl., ¶ 22.
9 The guidelines explain how to fill out the necessary forms and list the documentation that must be
10 submitted to prove ownership. *See id.*, Ex. B.

11 Like most states,⁹ California’s UPL does not authorize payment of interest on claims.
12 § 1540(c). Previous versions of section 1540 did allow the Controller to pay interest at rates that
13 varied over the years, but interest never “posted” to a particular account. Rather, the interest was
14 calculated when claims were paid based on the rate then in effect. Pls.’ Huarte Decl., ¶ 18. California
15 does not deduct any service fees or other charges from unclaimed property before returning it to
16 holders or owners.¹⁰ *Id.*, ¶ 13.

17 **C. The Named Plaintiffs**

18 The Controller does not currently hold any of the property plaintiffs claim. In other
19 words, the Controller has either returned all property to plaintiffs in response to claims that they filed,
20 or has no record of having ever held such property. Defs.’ Huarte Decl., ¶¶ 14-19.

21
22
23 ⁹ Twenty-eight states plus the District of Columbia either do not authorize or prohibit the payment of
24 interest from state funds on unclaimed property. *See* Prinzing Decl., ¶ 13. All other states – with one
25 exception – provide interest on a limited basis only. These states either pay interest only on certain
26 forms of property – typically property that was interest-bearing before being transferred to the state –
or pay interest only for a limited number of years; or impose both limitations. New Jersey stands alone
in paying interest without limitations as to time or form of property, but unlike California, New Jersey
is required to deposit unclaimed property funds in bonds or other interest-bearing accounts. *See id.*,
¶ 14.

27 ¹⁰ Twenty-six states allow program administrators to deduct costs or service charges from claims, or
28 withhold funds to pay child support or state tax arrearages. *See* Prinzing Decl., ¶ 15.

1 Plaintiff Agnes Suever purchased a cashier's check in 1993, which escheated in 1999
2 and was reclaimed in 2002. Defs.' Huarte Decl., ¶ 14, Exs. C, D; Decl. of Jeffrey Ball in Supp. of
3 Defs.' Opp. to Pls.' Mot. for Partial Summ. J. ("Ball Decl."), Ex. 1 at 27:16 - 30:25, Ex. 2.
4 Mrs. Suever "forgot" about the check which "fell under a piece of heavy furniture and was unnoticed
5 for quite some time." Ball Decl., Ex. 1 at 50:14-21, 53:3-24. The Suevers subsequently filed a claim
6 and were "fully reimbursed" for the check. *Id.*, Ex. 1 at 17:15-19.

7 In November 1991, 505 shares of plaintiff Steve Tucker's Intel stock escheated to
8 California. Pls.' Comp., Ex. E at ¶¶4, 9(b); Ball Decl., Ex. 3 at 55:11-13. Mr. Tucker learned of the
9 escheat in 1995, but he did not file a claim for his property until 1999, at which time the State returned
10 \$74,728 to him, including \$18,703 in interest. Ball Decl., Ex. 3 at 62:3 - 80:19, 106; Pls.' Comp.,
11 Ex. E at ¶ 9(c).

12 Plaintiff Alexander Vondjidis purchased stock from Hewlett Packard when he worked
13 in HP's office in Athens, Greece in the 1970s. Ball Decl., Ex. 4 at 11:10-16, 38:13 - 40:18. The stock
14 purchase plan was administered in California, and HP's California office communicated with
15 Mr. Vondjidis about his stock through the Athens office. *Id.* at 42:5-21, 44:8-24. Mr. Vondjidis
16 stopped working for HP in 1978, and the Athens office closed in the early 1980s. *Id.* at 40:1 - 42:4.
17 After that, Mr. Vondjidis stopped receiving information about his stock, but he never "did anything to
18 alert HP to send documents to [his] home." *Id.* at 43:11 - 45:12. Mr. Vondjidis' stock escheated
19 in 1993. Defs.' Huarte Decl., ¶ 15(a), Ex. F. Mr. Vondjidis filed a claim for his stock in 2001, and the
20 Controller returned \$25,961 to him, including \$4,464 in interest. Defs.' Huarte Decl., ¶¶ 15(b), 15(c),
21 Exs. G, H; Ball Decl., Ex. 4 at 90:1-12, 108:21 - 111:12.

22 General Electric transferred stock owned by plaintiffs Richard and Jo-Ann Seitzinger to
23 California in 1994. Pls.' Comp., Exs. C at ¶ 4, D at ¶ 4. The Seitzingers learned about the escheat
24 through the Controller's Internet publication notice. *Id.* They submitted a claim for the shares in
25 September 2000, and the following month, the Controller returned \$18,366 to them, including \$3,986
26 in interest. Defs.' Huarte Decl., ¶ 16.

1 Plaintiff Johnstone Whitley and his daughter plaintiff Lynn Keith claim that the
2 Controller destroyed documentary evidence transferred to California by a trust company that would
3 have proved their family's interest in railroad rights of way. Ball Decl., Ex. 5 at Interrog. No. 5. But
4 the trust company transferred documents to the Controller in 1980 stating that the company sold the
5 railroad rights of way in 1977, and could not locate certain beneficiaries of the trust to pay them their
6 share of the sale proceeds. These lost beneficiaries included Mr. Whitley's father and grandfather,
7 who were owed nearly \$38,000 in trust assets. Defs.' Huarte Decl., ¶ 17(a), Ex. J. In 1986, the
8 Controller paid Mr. Whitley and another individual nearly \$38,000 in trust assets. Defs.' Huarte Decl.,
9 ¶ 17(b), Ex. K. In other words, the evidence suggests that the Controller fully reimbursed plaintiffs for
10 their property interests.

11 Plaintiff Richard Valdes declares that the Controller seized shares of stock he owned in
12 Columbia Yacht Company but that he cannot recover those shares as a result of the Controller's
13 document retention policy and claims process. Pls.' Comp., Tab F at ¶¶ 4, 5. Yet Mr. Valdes admits
14 that none of the shares he now claims were transferred to California in his name. *Id.*; Ball Decl.
15 Exs. 7, 8 at RFA No. 6. Furthermore, he has testified in a related case that it is "possible" that his
16 memory is inaccurate and that he never owned the shares that he now claims, and he is unaware of any
17 documents that could prove his ownership. Ball Decl., Ex. 9 at 65:23 - 66:16.

18 None of the plaintiffs alleges that the stock, cashier's check or documents at issue here
19 earned any interest prior to their escheat to the State.

20 **STANDARD OF REVIEW**

21 **A. The Standard For Summary Judgment is High on a Facial Challenge to a
22 State Statute**

23 As with all motions for summary judgment, a court must view all evidence in the light
24 most favorable to the nonmoving party and make all reasonable inferences in favor of the nonmoving
25 party. *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 587-88, 600-01 (1986).
26 Summary judgment must be denied where the factual record is inadequate for determining a
27 constitutional question. *Mabey v. Reagan*, 537 F.2d 1036, 1050-51 (9th Cir. 1976).

1 However, in addition to the familiar requirements of Rule 56, the standard for summary
2 judgment is higher where, as here, plaintiffs challenge the constitutionality of state laws. Long ago, in
3 another case challenging California's escheat statutes, the United States Supreme Court said that the
4 reasonableness of notice "is one of local experience, on which this court ought to be very slow to
5 declare that the state Legislature was wrong in its facts' or abused its discretion." *Security Sav.*
6 *Bank v. California*, 263 U.S. 282, 290 (1923) (citation omitted).

7 Thus, plaintiffs' burden of proof is higher because, despite pages of irrelevant
8 "evidence," they are actually mounting a facial challenge to the constitutionality of California's
9 Unclaimed Property Law. In order to succeed on that challenge, plaintiffs must shoulder an additional
10 burden of proof: They must "establish that no set of circumstances exists under which the [statute]
11 would be valid." *S.D. Myers, Inc. v. San Francisco*, 253 F.3d 461, 467 (9th Cir. 2001), quoting
12 *United States v. Salerno*, 481 U.S. 739, 745 (1987).

13 Several things make it extremely difficult for plaintiffs to satisfy this high burden of
14 proof. First, the question of what constitutes adequate notice is extremely fact-specific. Courts must
15 give "due regard for the practicalities and peculiarities of the case," and "the constitutional validity of
16 any chosen method may be defended on the ground that it is in itself reasonably certain to inform those
17 affected, [citations omitted] or, where conditions do not reasonably permit such notice, that the form
18 chosen is not substantially less likely to bring home notice than other of the feasible and customary
19 substitutes." *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314-15 (1950). If the
20 Court determines that California provides constitutionally adequate notice, no further facts will be
21 required than those presented here. If the Court determines otherwise, however, plaintiffs must present
22 evidence proving that there are additional reasonable and available forms of notice that the Controller
23 could provide. Yet plaintiffs offer no such evidence at all.

24 Second, cases like *Jones v. Flowers*, 126 S. Ct. 1708, on which plaintiffs heavily rely,
25 were as-applied challenges, not facial challenges. *Jones* involved an entirely separate inquiry into the
26 government's responsibility when it had *actual* knowledge that its otherwise constitutional form of
27 notice – in that case a certified letter returned as unclaimed – had failed. 126 S. Ct. at 1712. By

1 contrast, cases like *Anderson National Bank v. Luckett*, 321 U.S. 233 (1944) and *Texaco, Inc. v. Short*,
2 454 U.S. 516 (1982), on which defendants rely, deal with the facial validity of unclaimed property
3 statutes and the reasonableness of their notice provisions.

4 Third, as demonstrated below, the nature of the notice required for a permanent
5 deprivation of property differs substantially from notice required in the type of situation at issue here,
6 where owners may claim their property from the state at any time. *See Anderson National Bank*,
7 321 U.S. at 246 (notice required for due process varies with circumstances).

8 Fourth, the nature of plaintiffs' claims and the circumstances under which the escheat of
9 their property occurred, differ enormously. Pp. 7-9 above. Given this wide variation, it is difficult to
10 know how plaintiffs could even succeed in defining the class that they wish to represent, much less
11 demonstrate that California's notice and interest provisions are invalid in all their applications.

12 **B. Taylor II is Not Binding as to Law or Facts**

13 Plaintiffs claim that the Ninth Circuit in *Taylor II* "held that . . . the Controller violates
14 the Due Process Clause." Pls.' Mem. at 15. In fact, no federal court has ever determined the merits of
15 plaintiffs' claims (although two published California Courts of Appeal opinions have upheld
16 California's UPL against due process claims). Certainly no appellate panel in this case has ever ruled
17 on the merits of these plaintiffs' claims. *Suever*, 439 F.3d at 1146-47. And *Taylor II* considered a
18 preliminary injunction, on a record of sharply disputed facts, without any discovery, and largely on the
19 basis of a new case – *Jones v. Flowers* – that the parties addressed at oral argument but had not briefed.

20 Plaintiffs ask this Court to equate "likelihood of success" at the preliminary injunction
21 stage with "success" on the merits, but the Supreme Court condemned that very reasoning in
22 *University of Tex. v. Camenisch*, 451 U.S. 390 (1981). There, the Court reversed a decision that would
23 have denied defendants a trial on issues decided against them in preliminary injunction proceedings,
24 noting the "significant procedural differences" between preliminary and permanent injunctions.
25 451 U.S. at 394. Preliminary injunctions are "customarily granted on the basis of procedures that are
26 less formal and evidence that is less complete than in a trial on the merits." *Id.* at 395. For that reason,
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1 “the findings of fact and conclusions of law made by a court granting a preliminary injunction *are not*
2 *binding at trial on the merits.*” *Id.* (citations omitted) (emphasis added).

3 The same principles apply to cases based primarily on issues of law, and cases
4 presenting mixed questions of law and fact. *See, e.g., Southern Or. Barter Fair v. Jackson County,*
5 372 F.3d 1128, 1136 (9th Cir. 2004) (legal conclusions in preliminary injunctions “do not constitute
6 the law of the case.”); *Clark v. K-Mart Corp.*, 979 F.2d 965, 968 (3d Cir. 1992) (rejecting factual
7 findings from preliminary injunction that were based on a “few hours” of testimony by competing
8 experts); *see also Mylett v. Jeane*, 910 F.2d 296, 299 (5th Cir. 1990) (findings of fact and law in
9 preliminary injunction are not binding at trial). In short, “decisions on preliminary injunctions are just
10 that – preliminary.” *Southern Or. Barter Fair*, 372 F.3d at 1136.

11 **ARGUMENT**

12 **I.**

13 **PLAINTIFFS’ MOTION IS PROCEDURALLY DEFECTIVE**

14 **A. Plaintiffs’ Motion Fails to Provide Adequate Notice of the Relief Plaintiffs Seek**

15 Plaintiffs’ pleadings are too internally inconsistent to tell either what issues are to be
16 litigated or what relief plaintiffs seek. Plaintiffs’ notice of motion says that the motion is in two parts,
17 seeking final determinations of whether the State’s unclaimed property notice provisions violate the
18 due process clause of the Fourteenth Amendment and whether the State’s failure to pay interest on
19 unclaimed property violates the Takings Clause of the Fifth Amendment. Pls.’ Notice of Mot. and
20 Mot. for Partial Summ. J. at 2. Yet plaintiffs’ memorandum also asks the Court to rule on their claims
21 that the state accepts property “outside the scope of the UPL” and has failed to promulgate
22 administrative regulations under the State’s Administrative Procedure Act. Pls.’ Mem. at 22, 24.

23 Plaintiffs’ memorandum asks for “permanent injunctive relief prohibiting prospective
24 violations of the Due Process Clause” (*id.* at 3), yet their proposed order contains no injunction and
25 merely asks the Court to “declare[] and adjudicate[]” that the State’s notice and interest provisions are
26 unconstitutional. There is not one word about accepting property outside the scope of the UPL or
27 failing to promulgate regulations and no proposed language for a permanent injunction. For these

1 reasons alone, the motion should be denied, because it fails to adequately explain what it is asking the
2 Court to do.

3 **B. Plaintiffs' Request for Summary Adjudication of the First Cause of Action Fails on**
Eleventh Amendment Grounds

4 Plaintiffs move for summary adjudication of a claim – Count I for Declaratory Relief –
5 that this Court has already dismissed twice on Eleventh Amendment grounds. *See 2003 Suever Order*
6 at 5-7; *2006 Suever Order* at 3. Furthermore, the Ninth Circuit has twice held that the Eleventh
7 Amendment prohibits the retroactive relief plaintiffs seek. *See Suever*, 439 F.3d at 1148; *see also*
8 *Taylor I*, 402 F.3d at 935. Retroactive relief includes declaratory relief that would pass judgment on
9 past acts, and declaratory relief that would “operate as an end-run around” the Eleventh Amendment
10 prohibition against damages because it could be used to win damages in state court. *Benning v. Bd. of*
11 *Regents of Regency Univ.*, 928 F.2d 775, 778 (7th Cir. 1991); *see also Taylor I*, 402 F.3d at 935;
12 *Suever*, 439 F.3d at 1148. Plaintiffs’ first count is directed exclusively at past acts. *See* Compl. at pp.
13 36-39. Even if rewritten to relate to current practices, there would be no need for the declaration other
14 than to try to seek damages in state court, given that plaintiffs also seek injunctive relief.
15

16 Alternatively, defendants have asserted a statute of limitations defense to this and all
17 claims designed to secure damages, and they request that the Court continue this motion so that they
18 can complete discovery to establish this and other defenses. *See* Fed. R. Civ. Proc. 56(f); p. 34 below.

19 **C. Plaintiffs Fail to Meet the Standard for Permanent Injunctive Relief**

20 To be entitled to injunctive relief, plaintiffs must show a “likelihood of substantial and
21 *immediate irreparable injury.*” *O’Shea v. Littleton*, 414 U.S. 488, 502 (1974) (emphasis added); *see*
22 *also Hodgers-Durgin v. De La Vina*, 199 F.3d 1037, 1042-45 (9th Cir. 1999). This they obviously
23 cannot do, because their own counsel has obtained a preliminary injunction on behalf of other plaintiffs
24 barring the State from accepting any unclaimed property at all. Although plaintiffs acknowledge this
25 at page two of their memorandum and attach a copy of the injunction to their brief, they also ask this
26 Court to hold that they are entitled to summary judgment as a matter of law.
27
28

1 Even without the presence of the preliminary injunction, plaintiffs' allegations of
2 irreparable harm are simply untrue. For example, plaintiffs allege that the Controller's Office sells
3 escheated securities within 30 days, relying on a 2006 declaration filed in another case. Pls.' Mem.
4 at 9. But plaintiffs' counsel knows from pleadings filed in the *Taylor* case that this is no longer true.
5 Defs.' Huarte Decl., ¶¶ 9, 10. The Controller's office suspended this policy in June 2006, and in
6 January 2007, the new Controller ordered that no sales would take place until eighteen months after
7 securities escheat and one year after safe deposit box contents escheat. *Id.*, ¶¶ 9, 10.

8 Plaintiffs also mislead the Court by asserting that prior to the injunction, "the Controller
9 immediately sold or destroyed *all* property." Pls.' Mem. at 7, 12 (emphasis added). The truth is that
10 the vast majority of unclaimed property – 74% in the most recent year – is never sold because it is in
11 the form of cash, thereby enabling owners to recover their property in its original form merely by filing
12 a claim. Defs.' Huarte Decl., ¶ 7. Circumstances vary for owners of unclaimed stock, which is subject
13 to sale. Owners who file claims before sale recover their shares. Owners who file after sale recover
14 the proceeds of the sale. Whether the sale improved their position depends on factors such as whether
15 the stock price rises or falls between the date of escheat and the date of sale. Whether an owner is
16 harmed by the inability to vote on corporate issues or attend shareholder meetings will vary by
17 individual. Mr. Vondjidis, for example, incurred no such harm because he never engages in
18 shareholder activities. Ball Decl., Ex. 4 at 63:10 - 67:7.

19 Thus, plaintiffs' "evidence" of irreparable harm is not only inadequate but affirmatively
20 misleading. It is all the more so because, as plaintiffs know, the law they challenge is almost certain to
21 change. As the Controller has stated publicly and to this Court, he expects the Legislature to amend
22 the UPL's notice and sale provisions as part of the State's budget process. Defs.' Mot. to Enlarge
23 Time & Continue the Hr'g on Partial Summ. J. (filed on June 26, 2007) at 2, and evidence cited
24 therein. Thus, by the time plaintiffs' motion is heard, the law will most likely have changed, and
25 plaintiffs' claims about lack of notice will be moot. This circumstance itself is enough to defeat
26 plaintiffs' motion for permanent injunctive relief. *See Hodgers-Durgin*, 199 F.3d 1037 at 1042 ("The
27 Supreme

1 court has repeatedly cautioned that, absent a threat of immediate and irreparable harm, the federal
2 courts should not enjoin a state to conduct its business in a particular way.”)

3 **II.**

4 **PLAINTIFFS ARE NOT ENTITLED TO SUMMARY JUDGMENT
ON THE UNCLAIMED PROPERTY LAW'S NOTICE PROVISIONS**

5 **A. California's Unclaimed Property Program Satisfies Due Process**

6 The heart of plaintiffs' case is that the notice provisions of California's UPL violate the
7 due process clause. This is not, however, an issue of first impression. Two California Courts of
8 Appeal, relying upon *Texaco v. Short*, 454 U.S. 516, have upheld California's program against a due
9 process challenge. Specifically, *Fong v. Westly*, 117 Cal. App. 4th 841, 855 and *Harris v. Westly*,
10 116 Cal. App. 4th 214, 222-23 held that because (1) property escheats to California by operation of law
11 rather than adjudicative or administrative proceeding, and (2) California law establishes a program of
12 custodial rather than permanent escheat, due process requires no more notice than that which is
13 provided by the statute and the process of escheat (although the Controller provides more notice than
14 that). By contrast, the Ninth Circuit has determined that plaintiffs demonstrated a likelihood of success
15 on similar claims. *Taylor II*, 2007 WL 1557611 at *2-3. *See also Taylor III*, 2007 WL 1628050 at *2.
16 The *Taylor II* court ignored *Texaco* and the other case most directly on point, *Anderson National*
17 *Bank v. Luckett*, 321 U.S. 233, and instead relied upon *Jones v. Flowers*, 126 S. Ct. 1708,
18 notwithstanding the fact that *Flowers* was an as-applied challenge to the permanent deprivation of
19 property rather than a facial challenge to a system of custodial escheat.
20

21 None of these cases binds this Court. *See* pp. 11-12 above. *Texaco* and *Anderson*, by
22 contrast, are binding, and *Fong* and *Harris* are persuasive because they apply *Texaco* to a challenge to
23 California's system of custodial escheat. But even if they were not, plaintiffs' analysis of *Flowers* is
24 flawed; the notice provisions of the UPL satisfy all standards of due process articulated by the
25 Supreme Court.
26

1. **California's notice provisions satisfy *Texaco* and *Anderson***

27 The Supreme Court last considered whether a custodial abandoned property program
28 satisfied due process in *Anderson*, 321 U.S. 233. There, the Court concluded that the Kentucky
MEMORANDUM OF POINTS AND AUTHORITIES IN
SUPPORT OF DEFENDANT'S OPPOSITION TO
PLAINTIFFS' MOTION FOR PARTIAL SUMMARY
JUDGMENT – NO.: C 03-00156 RS

1 statutes governing abandoned bank deposits by themselves provided the notice due to bank account
2 owners of the conditions that would render their property presumptively abandoned and trigger the
3 bank's obligation to transfer the accounts to the state. *Id.* at 243. The Court held that such statutory
4 notice satisfies due process when coupled with notice posted on the courthouse bulletin board and the
5 notice provided by the seizure of the property itself. *Id.* at 244. Six years later, the Court in *Mullane*,
6 339 U.S. 306, affirmed *Anderson* when it distinguished the less rigorous notice required for abandoned
7 property from the more rigorous notice required for adjudicative procedures. *See* 339 U.S. at 316.

8 Nearly 40 years later, in *Texaco v. Short*, the Supreme Court considered whether a state
9 must “advis[e] its citizens of actions that must be taken to avoid a valid rule of law that a mineral
10 interest that has not been used for 20 years will be deemed to be abandoned.” 454 U.S. at 531. It
11 answered the question in the negative: “a legislature need do nothing more [to provide notice] than
12 enact and publish the law, and afford the citizenry a reasonable opportunity to familiarize itself with its
13 terms. . . .” *Id.* at 532. On that basis, *Fong* found that the statutory notice provided by California’s
14 UPL exceeded constitutional requirements. *See* 117 Cal. App. 4th at 854 (“[D]ue process did not
15 require the Controller to give notice to plaintiffs under these circumstances beyond what plaintiffs had
16 already received constructively.”). In *Harris*, the Second District Court of Appeal concurred. *See*
17 116 Cal. App. 4th at 223 & n.15.

18 Here, plaintiffs cannot complain that they did not have a fair opportunity to familiarize
19 themselves with the law. California has had a custodial unclaimed property program since 1959, and
20 the United States Supreme Court upheld the State’s prior abandoned property program in 1923. *See*
21 *Security Sav. Bank v. Cal.*, 263 U.S. 282, 286-87 (1923). Instead, plaintiffs assert that *Jones v.*
22 *Flowers* rejected as irrelevant such “constructive notice.” Pls.’ Mem. at 18.

23 *Flowers* did no such thing; the opinion in that case does not even cite *Texaco*, let alone
24 overrule it. Instead, *Flowers* emphasizes the other characteristic that distinguishes the line of cases
25 upon which it relies from *Texaco*: *Flowers* addresses the *permanent* loss of a man’s house rather than
26 the *custodial* escheat of stock or cash. *Compare Flowers*, 126 S. Ct at 1716 (additional notice due
27 when “the subject matter of the letter concerns such an important and irreversible prospect as the loss

1 of a house") and *Mullane*, 339 U.S. at 311 ("We understand that every right which beneficiaries would
2 otherwise have . . . is sealed and wholly terminated by the decree" at issue) *with Texaco*, 454 U.S.
3 at 535 (distinguishing *Mullane* on ground that it involved an "adjudication" . . . 'to be accorded
4 finality'" while owners in *Texaco* could reclaim their rights through subsequent adjudication) *and*
5 *Anderson*, 321 U.S. at 238 (addressing custodial escheat). It was this distinction between permanent
6 and custodial escheat that *Fong* and *Harris* relied upon in part to uphold California's UPL against due
7 process challenges. *Harris*, 116 Cal. App. 4th at 223 (finding "no constitutional dimension" to
8 deprivation of "one form of unclaimed property in favor of another."); *Fong*, 117 Cal. App. 4th at 854
9 (distinguishing cases involving permanent deprivations).

10 **2. The notice provided by the Controller satisfies due process**

11 Even if *Texaco* and *Anderson* do not alone define the requirements of due process here,
12 the UPL goes much further than *Texaco* requires. The UPL provides for two rounds of direct mail
13 notice: a first pre-transfer mailing by holders to virtually all owners at the addresses in the holders'
14 records, and a second post-transfer mail notice by the Controller to certain owners with different
15 addresses on file with the Franchise Tax Board ("FTB notice"). The law also provides for newspaper
16 publication notice, and in addition, the Controller provides Internet notice. *See* pp. 5-6 above.
17 Plaintiffs claim, and the *Taylor II* panel agreed, that the direct mail notice sent by holders is irrelevant
18 and that the FTB notice is insufficient. Pls.' Mem. at 17; *Taylor II*, 2007 WL 1557611 at *3. Instead,
19 plaintiffs would have the Controller send direct mail notice to all owners "at the best available
20 address." Plaintiffs also discount Internet notice and deem the Controller's newspaper publication
21 notice insufficient. Pls.' Mem. at 17. Instead, plaintiffs would require the Controller to publish
22 newspaper notice with the names and addresses of all unclaimed property owners. *Id.*

23 The first error in plaintiffs' reasoning involves the relevance of the notice provided by
24 holders *prior* to escheat. The *Taylor II* panel discounted the direct mail notice sent by holders,
25 reasoning that *Flowers* requires the State, rather than third parties, to give notice. *See Taylor II*,
26 2007 WL 1557611 at *3. But *Flowers* had no occasion to address – let alone decide – the issue,
27

1 because third parties apparently play no role in the Arkansas tax-sale program. A case cited by
2 *Flowers* with approval on other grounds,¹¹ however, does provide that private third parties may
3 participate in the State's provision of notice. *See Plemons v. Gale*, 396 F.3d 569, 572 & n.3
4 (4th Cir. 2005) ("The Constitution only requires due process when the state or federal government
5 works the deprivation of property. Appropriately, neither party disputes that the tax-sale procedure in
6 this case constitutes state action, *although state law charges a private party with providing notice.*"')
7 (emphasis added).

8 When the Supreme Court has addressed the role of private parties in providing notice
9 under the due process clause, it has assumed what *Plemons* explicitly acknowledged. *Mullane*
10 considered the notice required to inform beneficiaries that the trustee of their common trust fund
11 sought to settle related accounts through judicial action. *See* 339 U.S. at 307. The Court held that due
12 process allowed some beneficiaries to receive notice through newspaper publication alone, while more
13 easily ascertainable beneficiaries were entitled to mail notice. *See id.* at 317-18. But the Supreme
14 Court did not require the *state* to buy the newspaper advertising space or mail the letters of notice.
15 Instead, the Court affirmed the limited application of a statute that required the trustee – *i.e.*, Central
16 Hanover Bank – to publish notice, and suggested that the Bank send mail notice along with other
17 mailings that it periodically sent beneficiaries. *See id.* at 317-18. More recently, the Court considered
18 an Oklahoma probate code provision that required creditors to present claims against an estate within
19 two months of the publication of newspaper notice that probate had commenced. *See Tulsa Prof'l*
20 *Collection Servs. Inc. v. Pope*, 485 U.S. 478, 479-480 (1988). As in *Mullane*, the Court required mail
21 notice for all those creditors who had "reasonably ascertainable" addresses, and publication notice for
22
23
24
25
26

27¹¹ 126 S. Ct. at 1714 (citing *Plemons* with approval for anticipating the holding in *Flowers*).
28

1 others. 485 U.S. at 490. The opinion anticipated that both forms of notice would be provided by a
2 private party¹² – the executor – while the state itself would provide no notice. *See id.*

3 Furthermore, the UPL’s procedures relating to the provision of notice by private parties
4 mirror procedures at the heart of the civil justice system. Federal courts enter default judgments
5 against defendants who have “failed to plead or otherwise defend as provided by [the federal rules of
6 civil procedure]” when “that fact is made to appear by affidavit or otherwise.” Fed. R. Civ. P. 554(a).
7 Under the Federal Rules of Civil Procedure, notice of such default judgments need only be provided to
8 some litigants – *e.g.*, those who “ha[ve] appeared” – through service of “written notice.” Fed. R. Civ.
9 P. 554(b)(2). The notice is not served by the court, of course, but by the plaintiff. Federal law imposes
10 no duty on courts to verify whether plaintiffs have completed service; clerks need only accept the proof
11 of service filed by the plaintiff, through which plaintiff swears under penalty of perjury that plaintiff
12 did what the law required. *See* Fed. R. Civ. P. 5(d). Here, too, the Controller relies on holders’
13 verified statements that they have complied with the law.

14 Finally, because most of the plaintiffs owned securities that escheated to the state,¹³
15 there was an additional layer of protection in the form of a Securities and Exchange Commission
16 regulation requiring every recordkeeping transfer agent to use “reasonable care” to locate lost security
17 holders. 17 C.F.R. § 240.17Ad-17. The regulation requires each agent to “conduct two data base
18 searches,” using the owner’s “taxpayer identification number or by name if a search based on taxpayer
19 identification number is not reasonably likely to locate the securityholder.” *Id.* Thus, when a
20 corporation verifies under penalty of perjury that it is unable to locate a security holder, it is verifying
21 that it has conducted the searches required by both federal law and the UPL.

22
23
24 ¹² As described in the opinion, the Oklahoma statute already required the private party to publish
25 notice. *See Tulsa*, 485 U.S. at 482. The Court then went on to cite with approval probate statutes in
other states which provided for mail notice by private parties rather than states. *See id.* at 490 (citing
Cal. Prob. Code §§ 9050, 9100 (West Supp. 1988) and Nev. Rev. Stat. §§ 147.010, 155.010, 155.020
(1982)).

26 ¹³ The exceptions are Agnes Suever, who held a cashier’s check from a holder that did not have her
27 address, and Johnstone Whitley, who complains of lost trust documents from a trust company that did
not have his address. Defs.’ Huarte Decl., ¶¶ 14, 17, Exs. C, K.

1 For all these reasons, the direct mail notice sent to virtually all owners prior to the
2 transfer or sale of their property is appropriate and must be included in the due process analysis. This
3 round of mail notice for reasonably ascertainable owners coupled with the Controller's publication
4 notice for all others is all the Constitution requires – even in cases involving adjudicative proceedings
5 and permanent deprivations of property. *See Tulsa Prof'l Collection Servs.*, 485 U.S. at 490;
6 *Mennonite Bd. of Missions v. Adams*, 462 U.S. 791, 800 (1983); *Mullane*, 339 U.S. at 317-18.

7 **3. Jones v. Flowers does not apply to these facts**

8 *Jones v. Flowers* did not change the rule described above. *Flowers* considered whether
9 due process requires additional notice “*when notice of a tax sale is returned undelivered.*” 126 S. Ct.
10 at 1713 (emphasis added). The Court reaffirmed that mail notice is adequate when the state “hear[s]
11 nothing back indicating that anything had gone awry.” *Id.* at 1714. The issue decided in *Flowers* – the
12 “new wrinkle” that led the Court to grant certiori – is whether due process requires *more* once the
13 government has actual knowledge that its attempt at notice has failed. *Id.*

14 In *Flowers*, Arkansas had actual notice that its two certified letters had not reached their
15 destination because both letters were “returned to the Commissioner marked ‘unclaimed.’” *Id.* Here,
16 California has no notice whatsoever that the holders’ mail notice failed when it receives unclaimed
17 property from the holder. All the State knows is that the holders have sworn under penalty of perjury
18 that mail notice was sent to all owners required by law and that the owners did not respond. A failure
19 to respond is not the same as a failure of notice. The law presumes that mail has been received by the
20 addressee. *Hagner v. United States*, 285 U.S. 427, 430 (1932); *Herndon v. De La Cruz (In re De La*
21 *Cruz*), 176 B.R. 19, 22 (B.A.P. 9th Cir. 1994). Absent proof to the contrary, the presumption is that
22 the holder’s notice arrived at the owner’s address, but might not have been acted upon because the
23 owner ignored the warning, or threw the envelope away unopened, or because the owner had passed
24 away. Thus, while the return of an envelope marked “unclaimed” means in every case that the
25 envelope was not received and that further notice might help, the absence of a response indicates the
26 opposite. Accordingly, the circumstance that triggered the requirement of an additional round of mail
27 notice in *Flowers* is not present here.

1 **B. Unless the Court Finds That California's Current Notice Provisions Are facially
2 Valid, a Genuine Issue of Material Fact Exists as to What Constitutes Reasonable
3 Notice**

4 Plaintiffs' own evidence demonstrates that virtually all owners receive direct mail
5 notice from the holders; more than a third of a million owners received additional direct mail notice
6 last year from the Controller; and the Controller provides all owners newspaper publication notice, as
7 well as Internet notice. Pls.' Huarte Decl., ¶¶ 6-8.

8 If the Court determines that this notice is constitutionally adequate, no other facts will
9 be relevant. However, if the Court determines otherwise, *Flowers v. Jones*, requires a second step in
10 the analysis to determine whether there are, in fact, additional reasonable forms of notice available to
11 the Controller. 126 S. Ct. at 1718-19. Plaintiffs offer no evidence on this issue. By contrast,
12 defendants' evidence demonstrates that additional forms of notice are not constitutionally required.¹⁴

13 *Flowers* made clear that additional steps may only be ordered if reasonable steps are in
14 fact available. *See id.* Here, the only such steps are those already provided by law. For example, one
15 possibility involves sending a second round of mail notice to the addresses in the holders' reports, but
16 such notice is unlikely to succeed given that the holders already sent notice to the addresses in their
17 records and the owners did nothing. Plaintiffs' circumstances underscore the challenge. There are no
18 reported addresses for Agnes Suever, Johnstone Whitley, Lynn Keith or the Seitzingers, and no report
19 of even the name of Richard Valdes. Had the Controller sent notice to the address Intel reported for
20 Mr. Tucker, that notice would have arrived at an address he had vacated approximately three years
21 earlier. Had the Controller sent notice to the address HP reported for Mr. Vondjidis, it would have
22 arrived at an office that had been closed for more than a decade. *See pp. 25-26 below.* "The law does
23 not require the doing of a futile act." *Ohio v. Roberts*, 448 U.S. 56, 74 (1980), *abrogated on other*
24 *grounds*, *Crawford v. Washington*, 541 U.S. 36, 60 (2004).

25
26 ¹⁴ The Controller believes, however, that as a matter of policy, the state should do more to reunite lost
27 owners with their property. He has therefore sponsored legislation to require additional forms of
28 notice and he supports a trailer bill to the State Budget, described above, which would also provide for
 additional notice. *See* Cal. Senate Bill No. 919.

1 Possibly in acknowledgement of these facts, plaintiffs suggest that the Controller be
2 required to seek out the “best address available” for all owners. Pls.’ Mem. at 17. They cannot cite
3 any authority supporting the request because *Flowers* flatly rejected the argument that a state should be
4 required to search for a “new address in the . . . phonebook and other government records such as
5 income tax rolls.” 126 S. Ct at 1719. Indeed, California already seeks out different addresses for
6 owners by requesting addresses from the FTB for all owners whose names are reported along with
7 social security numbers. Last year, California mailed out 360,000 such notices, Defs.’ Huarte Decl.,
8 ¶ 4, greatly exceeding its constitutional obligations.

9 With respect to owners whose whereabouts are not reasonably ascertainable, the
10 Supreme Court has held that newspaper publication notice of the type California uses is “clearly”
11 adequate. *Mullane*, 339 U.S. at 317; *Tulsa Prof'l Collection Servs.*, 485 U.S. at 490. Plaintiffs would
12 like the Controller to list the names of owners in newspaper ads, but *Mullane* forecloses the argument.
13 There, plaintiffs challenged a statute requiring newspaper publication notice without requiring
14 publication of the names of those with property interests at issue. 339 U.S. at 310. The Court
15 acknowledged that “[t]he chance of actual notice is further reduced when as here the notice required
16 does not even name those whose attention it is supposed to attract.” *Id.* at 315. Nevertheless, it upheld
17 statutory notice for beneficiaries who were not reasonably ascertainable. *Id.* at 317. In other words,
18 the Court decided that newspaper notice without names is constitutionally adequate even though it
19 might be more effective to include names.

20 At a minimum, the available evidence creates a genuine issue of material fact about
21 whether publication of names and addresses on the Internet is more reasonable *and* more effective than
22 newspaper publication. The U.S. Census Bureau reports that people increasingly spend more time
23 using the Internet, and less time reading daily newspapers. Defs.’ Request for Judicial Notice, Ex. 1 at
24 Tables 1110, 1138. More homes and workplaces are signing up for the Internet, and fewer subscribe to
25 daily newspapers. *Id.* at Tables 1111, 1114, 1137, 1143. These statistics are consistent with plaintiffs’
26 experiences. The Seitzingers admit that they learned about the escheat of their stock through the
27 Controller’s Internet notice. Pls.’ Comp., Tab C, ¶ 4. Mr. Tucker admits that he did not read

1 California newspapers at the time that his stock escheated and now spends more time reading the
2 Internet than newspapers. Ball Decl., Ex. 3 at 137:12 - 140:4. Mr. Vondjidis, who lives in Canada,
3 has never subscribed to a California newspaper, but he has visited the Controller's website. Ball Decl.,
4 Ex. 4 at 27:9-24.

5 Finally, the evidence demonstrates that the UPL's current notice practices are more
6 successful in reuniting owners and their lost property than the practices plaintiffs would impose.
7 During the years that the current practices have been in place, the Controller has returned a greater
8 percentage of the unclaimed property that escheats to the state each year than during the years when
9 plaintiffs' proposed practices were in place. For example, last fiscal year, the Controller's Office
10 returned 45% of the unclaimed property that escheated to the State to owners who filed claims. This
11 rate was far lower when the UPL required the Controller to provide notice to owners before their
12 property escheated to the State, and publish newspaper notice with the names of apparent owners. For
13 example, in 1985-86, only 17% of the unclaimed property received by the State was returned to
14 owners. Defs.' Huarte Decl., ¶ 20. Thus, although the Controller supports sending additional mail
15 notice in the hope that it may attract owners' attention, such notice is not constitutionally compelled.

16 **III.**

17 **PLAINTIFFS ARE NOT ENTITLED TO SUMMARY JUDGMENT
18 ON THEIR CLAIMS THAT THE CONTROLLER ACCEPTS PROPERTY
OUTSIDE THE SCOPE OF THE UNCLAIMED PROPERTY LAW**

19 **A. Plaintiffs Offer No Case Law to Support Their Claim That the State Must Independently
20 Verify That Property is Subject to Escheat**

21 Plaintiffs argue that the Controller "indiscriminately seizes and sells property outside
22 the UPL." Pls.' Mem. at 20. The Controller, however, does not, "seize" property. Rather, unclaimed
23 property escheats to the State by operation of law, as described above. *See* pp. 4-5; *see also Texaco*,
24 454 U.S. at 533-34.

25 Plaintiffs also claim that the Controller "does nothing to verify that it actually has the
26 legal right to accept the property it takes into custody under the UPL." Pls.' Mem. at 20. Plaintiffs
27 point to no law, however, that imposes a duty on the Controller to verify the truth of the assertions in

1 the holders' reports, made under penalty of perjury, that plaintiffs' whereabouts were in fact unknown,
2 nor do they explain how the Controller could carry out this duty even if it had been imposed.

3 §§ 1516(d), 1530. Under state law, the duty to verify, in both the practical and the legal sense, lies
4 with the holder:

5 The [holder's] report, if made by an individual, shall be verified by the
6 individual; if made by a partnership, by a partner; if made by an
7 unincorporated association or private corporation, by an officer; and if
made by a public corporation, by its chief fiscal officer or other
employee authorized by the holder.

8 § 1530(e).

9 Thus, holders must verify under penalty of perjury that their report is full, true, and
10 complete. The Controller does not, and has no obligation to, confirm the accuracy of the 13,000 or so
11 reports received each year. Pls.' Huarte Decl., ¶ 6; Defs' Huarte Decl., ¶ 3. Instead, the Controller
12 ensures that all holders' reports are verified, and if they are not, his office follows up to secure the
13 verification. Defs.' Huarte Decl., ¶ 3.

14 Plaintiffs offer not a single federal case suggesting that states have a constitutional duty
15 to verify the information contained in the holders' reports. The Supreme Court has made clear that "it
16 is within the constitutional power of the state to protect the interests of [bank] depositors from the risks
17 which attend long neglected accounts, by taking them into custody when they have been inactive so
18 long as to be presumptively abandoned [citations omitted], just as it may provide for the administration
19 of the property of a missing person." *Anderson*, 321 U.S. at 241; *see also Provident Inst. for Sav. v. Malone*, 221 U.S. 660, 664 (1911) (affirming "right and power" of state to pass legislation escheating
abandoned property to state) (citing *Cunnias v. Reading Sch. Dist.*, 198 U.S. 458, 471 (1905) (it is
well-established that governments have right to regulate abandoned property)). It has also made clear
that states have jurisdiction to exercise custodial and even permanent escheat over intangible property,
such as an interest in a corporation, and it has established rules that govern *which* state is entitled to
take custody of the property.¹⁵ Not one of these cases even suggests that before a state may exercise

27 ¹⁵ See *Delaware v. N.Y.*, 507 U.S. 490, 497-500 (1993) (addressing custodial escheat); *Standard Oil Co. v. State of N.J.*, 341 U.S. 428, 441 (1951) (addressing permanent escheat).

1 jurisdiction over unclaimed property it must independently verify the holder's own verification that the
2 property meets the statutory requirements for escheat.

3 Nevertheless, plaintiffs insist that it is the Controller's responsibility to verify the
4 accuracy of the holders' reports. They fail to say, however, how this is to be done. In effect, they ask
5 the Court to order the Controller to verify that the owner has not cashed a dividend check,
6 corresponded with the holder or otherwise indicated an interest in the property for three years and that
7 the owner failed to respond to the holder's notice of escheat. But this information is solely within the
8 control of the holder and owner, and it would be difficult, if not impossible, for the Controller to
9 verify, for example, that the owner had no contact with the holder for three years or that the holder's
10 address records for the owner were up-to-date. Thus, plaintiffs propose a rule that would effectively
11 eviscerate every unclaimed property program in the nation. If they are going to ask this Court to take
12 such a step, they should at least provide some authority that it is constitutionally compelled.

13 **B. Plaintiffs' Evidence Fails to Demonstrate That the Controller Accepts Property Not
Subject to Escheat**

14 Even if plaintiffs' construction of the law were correct, they fail to establish that the
15 Controller "receives" property that is outside the scope of the UPL. In fact the holders either reported
16 that the owners were unknown or that their whereabouts were unknown. If plaintiffs dispute the
17 accuracy of this information, their dispute is with the holder, not the Controller.¹⁶ At a minimum, they
18 must present competent, probative evidence, which defendants are entitled to test at trial, that their
19 allegations about the holders' knowledge are true and that the holders' knowledge can somehow be
20 imputed to the Controller. This they have not done.

21 For example, the Seitzingers support their claim that GE "was in possession of [their
22 name and address] at the time of the seizure of our stock" with testimony that "GE communicated with
23 our family regularly, sending us DRIP statements, annual reports and proxy materials." Pls.' Comp.,
24 Ex. C, ¶ 5. Whether they received communications from GE historically proves nothing about whether
25

26 ¹⁶ Plaintiffs do not claim that the Controller knew or should have known that the holders who
27 transferred their property to the State knew how to find them. Not one plaintiff suggests that the
28 Controller was on notice that the holders transferred their stock despite knowing how to find them.

1 GE knew where they were in 1994. In fact, when General Electric transferred the Seitzingers' stock to
2 the Controller, it reported no last known street address for the Seitzingers, only a city and zip code.
3 Defs.' Huarte Decl., ¶ 16(a), Ex. I.

4 Mr. Tucker declares that Intel knew his name and address "at the time of the seizure of
5 [his] stock" in 1991 because he was a former Intel employee and because Intel located him "to discuss
6 a separate matter at about the same time that my stock 'escheated'." Pls.' Comp., Ex. E, ¶ 5. Yet
7 Mr. Tucker previously testified that "in 1993 . . . Intel . . . needed to contact me as a result of some
8 changes to the Intel pension fund. They did not have my current address . . ." Ball Decl., Ex. 3
9 at 46:16 - 48:20. In other words, Mr. Tucker knows that Intel did *not* have his address. And when
10 Intel transferred Mr. Tucker's stock in November 1991, it reported an address that Mr. Tucker admits
11 he had left nearly three years before. *Compare* Defs.' Huarte Decl., ¶ 18, Ex. L *with* Pls.' Comp.,
12 Ex. E, ¶ 2.

13 Similarly, Mr. Valdes' declaration that he was never "'unknown' to Columbia Yacht"
14 Company proves nothing relevant. Pl. Comp., Tab F, ¶ 6. Columbia Yacht was sold to another
15 company (Whittaker) in 1967, which transferred the unclaimed shares to the Controller in 1994. Ball
16 Decl., Ex. 9 at 22:9 - 23:24. There is no evidence that Whittaker knew Mr. Valdes' whereabouts in
17 1994, or had any reason to know them, given that Mr. Valdes may not have owned any of the
18 transferred stock. *See* p. 9 above.¹⁷ When Whittaker reported the stock shares that Mr. Valdes claims
19 to own, Mr. Valdes was not listed among the owners. Ball Decl., Exs. 7, 8 at RFA No. 6.

20 As for foreign residents like Mr. Tucker, California law provides that when the last
21 known address of an owner is in a foreign nation and the holder is domiciled in this state, the property
22 escheats to the State. § 1510(d). Plaintiffs have not argued, much less offered evidence to prove, that
23 Intel was not domiciled in California at the time Intel transferred Mr. Tucker's stock to the State. The
24 key questions are where the stock was issued and where the holder, in this case Intel, was domiciled
25

26 ¹⁷ The same is true with respect to the other Plaintiffs. World Savings Bank and Ticor Trust Company
27 reported no addresses for Mrs. Suever or Mr. Whitley's father and grandfather. Defs.' Huarte Decl.,
Ex. 14, 17, Ex. C, K. Hewlett Packard reported an old address for Mr. Vondjidis. Defs.' Huarte Decl.,
Ex. 15(a), Ex. F; Ball Decl., Ex. 4 at 40:1-5.

1 when Mr. Tucker's stock escheated. In 1991 and even today, Intel had its principal place of business
2 in California, which is where it issued its stock.¹⁸ And if Intel wrongly believed it was domiciled in
3 California at the time it transferred Mr. Tucker's stock, the Controller was entitled to rely on that
4 verified representation.

5 Finally, even if plaintiffs had adequately supported their claims, the stories of four
6 individuals do not prove a systemic problem justifying relief directed at the entire program. It would
7 only prove that these plaintiffs are entitled to relief tailored to them. Plaintiffs have not met their
8 burden of demonstrating that California routinely accepts property outside the UPL.

9 **IV.**

10 **PLAINTIFFS' CLAIM THAT THE CONTROLLER HAS VIOLATED THE**
ADMINISTRATIVE PROCEDURES ACT IS BARRED

11 **A. Plaintiffs' APA Claim is Wrong as a Matter of Law**

12 Plaintiffs argue that the Controller has not complied with California's Administrative
13 Procedure Act ("APA") by promulgating regulations regarding the UPL's claims process. Pls.' Mem.
14 at 22-24. Because this Court "lacks jurisdiction over any claim seeking to enforce state law where the
15 effort to do so is based on anything other than an alleged federal constitutional right held by plaintiffs,"
16 however, plaintiffs' claim fails as a matter of law. 2006 *Suever* Order at 6:1-3; *see also Taylor II*, 2007
17 WL 1557611 at *3 & fn. 18 (because "federal courts lack jurisdiction to issue injunctions ordering
18 compliance with state law, plaintiffs' request for such relief should be rejected.") (citing *Pennhurst*
19 *State Sch. & Hosp. v. Halderman*, 465 U.S. 89, 124-25 (1984)); *Suever*, 439 F.3d 1142, 1148.

20 Even if the Eleventh Amendment did not bar determination of the issue, plaintiffs
21 cannot prevail because the APA does not apply to the UPL's claims process. In 1998, the Legislature
22 added the following provision to the UPL: "Following a public hearing, the Controller shall adopt
23 guidelines and forms that shall provide specific instructions to assist owners in filing claims pursuant
24 to this article." § 1540(e) (Stats. 1998, ch. 1029, § 1). The statute thus required a public comment
25 process *similar* to that required in the APA, but it did not require compliance with the APA itself. Pls.'

27
28 ¹⁸ See Intel Corp., <<http://www.intel.com/> and follow "contact Us" hyperlink).

1 Huarte Decl. ¶ 22. Furthermore, the APA does not apply to “[a] form prescribed by a state agency or
2 any instructions relating to the use of the form.” Cal. Gov’t Code § 11340.9(c). The Controller’s
3 claim forms and guidelines for making a claim are therefore exempt from the APA.¹⁹

4 **B. Plaintiffs Cannot Demonstrate That the Due Process Clause Requires Promulgation of
Formal Regulations**

5 Plaintiffs cite not a single authority for the proposition that APA-promulgated
6 regulations are *required* to assure due process. Because the Controller’s claims process forms and
7 guidelines were implemented following a public hearing and comments, and are easily available on his
8 website, the public has had ample notice of the UPL claims process and the guidelines that govern it.
9 Pls.’ Huarte Decl., ¶ 22; Defs.’ Huarte Decl., Ex. B. The guidelines, which appear as Exhibit B to
10 defendants’ Huarte declaration, spell out in clear, simple terms what a person must do in order to file a
11 claim for property. *See* Defs.’ Huarte Decl., ¶ B.

12 In addition, section 1541 allows “any person aggrieved by a decision of the Controller
13 or as to whose claim the Controller has failed to make a decision within 180 days after the filing of the
14 claim” to “commence an action . . . to establish his or her claim” in any city in which the state Attorney
15 General has an office. These procedures are more than ample under the due process clause.
16

17 **C. Genuine Issues of Fact Exist With Respect to Plaintiffs’ “Evidence” About the Sufficiency
of the State’s Claim Procedure**

18 Finally, plaintiffs rely upon disputed facts in support of their argument:

19 [S]ome Plaintiffs’ property (such as Plaintiffs Valdes, Keith, and
20 Whitley) is maintained in the Controller’s custody forever . . . , because

21 ¹⁹ In fact, plaintiffs’ specific request for an injunction requiring the Controller to “immediately present
22 lawful regulations to this Court” (Pls.’ Mem. at 24) regarding notice, verification, and interest, does
23 nothing to correct the harm of which they complain. Moreover, such an injunction would itself violate
24 the APA, which requires a lengthy public comment and review process. *See* Cal. Gov’t Code § 11340
et seq. (West 2007). Finally, such regulations are unnecessary because the UPL itself is quite specific;
25 regulations on these issues would be duplicative. *See, e.g.*, Cal. Gov’t Code § 11340.9(f) (APA does
26 not apply to a regulation that embodies “the only legally tenable interpretation of a provision of law”).
27 This is borne out by the fact that in response to the preliminary injunction in *Taylor III*, the Controller
28 is pursuing new statutory provisions, not new regulations, to address the issues raised by that court.
Defs.’ Huarte Decl., ¶ 10. The Controller must do so, because he cannot promulgate regulations that
contradict the UPL: “Administrative regulations that violate acts of the Legislature are void and no
protestations that they are merely an exercise of administrative discretion can sanctify them. They
must conform to the legislative will if we are to preserve an orderly system of government.”
Agricultural Labor Relations Bd. v. Superior Court, 16 Cal. 3d 392, 419 (1976) (citation omitted).

1 they cannot comply with the unwritten, arbitrary “process” used to
2 perfect a claim. Each of these Plaintiffs has attempted to “claim” his or
3 her property but was turned away by the Controller, who continues to
hold their private property.

4 Pls.’ Mem. at 23.

5 First, plaintiffs provide no factual support for this claim, which in itself is a ground for
6 denying summary judgment. *See Orr v. Bank of Am.*, 285 F.3d 764, 774-75 (9th Cir. 2002) (failure to
7 cite pages of deposition “warrants exclusion of the evidence”). The reason plaintiffs provide no
8 evidence is because there is no record at all that the Controller holds property belonging to Mr. Valdes,
9 Ms. Keith, or Mr. Whitley. *See* pp. 8-9 above; *see also* Defs.’ Huarte Decl., ¶¶ 17(a), 19. The only
10 reason these plaintiffs feel the claims process failed, apparently, is because they did not receive the
11 answers they wanted. Plaintiffs do not, after all, dispute that each plaintiff who claimed property
12 actually held by the Controller retrieved that property after following the claims procedure they attack
13 here. *See* pp. 8-9 above. Claims that the Controller violated the APA and the due process clause
14 cannot succeed simply because some plaintiffs are unhappy with the outcome of a process that worked
15 as it should.

16 The Controller cannot be charged with lack of a process for recovering property that he
17 does not have. At a minimum, there is a genuine issue of fact as to whether the Controller holds any of
18 these plaintiffs’ property at all.

19 V.

20 **THE FIFTH AND FOURTEENTH AMENDMENTS DO NOT REQUIRE**
THE STATE TO PAY INTEREST ON UNCLAIMED PROPERTY

21 **A. The Takings Clause Does Not Require the State to Pay Interest**

22 Like the majority of states,²⁰ California does not pay interest on unclaimed property
23 once it escheats to the State. § 1540(c) (“No interest shall be payable on any claim paid under” the
24 unclaimed property law.). Plaintiffs’ argument that this amounts to an unconstitutional taking has been
25 consistently rejected by state courts, for good reason. *See Sogg v. Ohio Dep’t of Commerce*, 2007 WL
26

27

²⁰ *See* footnote 9 above.

1 1821396, *10 (Ohio App. June 21, 2007) (retention of interest on abandoned property is not an
2 unconstitutional taking); *Hooks v. Treasurer*, __ So. 2d __, 2007 WL 1299883, *6 (La. App.
3 May 4, 2007) (decision to “award owners only post-abandonment interest” on certain types of property
4 is not an unconstitutional taking); *Clark v. Strayhorn*, 184 S.W.3d 906, 910, 915 (Tex. App. 2006) (no
5 unconstitutional taking of interest on abandoned property) *cert. denied*, 126 S. Ct. 508 (2006); *Smyth v.*
6 *Carter*, 845 N.E.2d 219, 223-24 (Ind. Ct. App. 2006) (common-law principle that “interest follows
7 principal” “does not apply where an owner’s actions cause the loss of rights of ownership”; thus
8 retention of interest is not an unconstitutional taking), *cert. denied*, 127 S. Ct. 1155(2006); *Smolow v.*
9 *Hafer*, 867 A.2d 767, 775-76 (Pa. Comw. 2005) (dismissing complaint alleging that failure to pay
10 interest on abandoned property is unconstitutional).

11 First, it is clear that states may use abandoned property for the general good:

12 As a broad principle of jurisprudence rather than as a result of the
13 evolution of legal rules, it is clear that a state, subject to constitutional
14 limitations, may use its legislative power to dispose of property within its
15 reach, belonging to unknown persons. Such property thus escapes
16 seizure by would-be possessors and is used for the general good rather
17 than for the chance enrichment of particular individuals or organizations.

18 *Standard Oil*, 341 U.S. at 436.

19 Not one of the Supreme Court cases upholding the states’ rights of escheat even
20 mentions a duty to pay interest, much less holds that payment of interest is one of the “constitutional
21 limitations” mentioned above. Over the years, holders have challenged various states’ escheat laws,
22 arguing that they violate either the holders’ or the owners’ due process rights.²¹ In none of those cases
23 has the Supreme Court ever suggested that states have a duty to pay interest on escheated property.
24 The reason is that the Takings Clause protects rather than creates property interests, and therefore the
25 existence of a property interest is determined by ““existing rules or understandings that stem from an
26 independent source such as state law.”” *Phillips v. Washington Legal Foundation*, 524 U.S. 156, 164
27 (1998) (quoting *Board of Regents of State Colleges v. Roth*, 408 U.S. 564, 577 (1972)). Here, the
28 underlying property or principal was not unlawfully taken, and the State has expressly stated that no

²¹ See *id.* See also *Anderson*, 321 U.S. at 239-240 (1944); *Security Sav. Bank*, 263 U.S. at 285 (1923).

1 interest shall be paid on unclaimed property. § 1540(c). Thus, there is simply no cognizable property
2 interest at issue here that is protected by the Takings Clause.

3 Plaintiffs nevertheless argue that under the common law doctrine that “interest follows
4 principal,” the state must pay interest on unclaimed property. Pls.’ Mem. at 24-28. The chief case on
5 which they rely is *Webb’s Fabulous Pharmacies, Inc. v. Beckwith*, 449 U.S. 155 (1980), in which a
6 company filed a complaint of interpleader in state court and tendered the disputed amount to the court.
7 The court then deposited the money in an interest-bearing account but when the case concluded, the
8 court, pursuant to Florida law, kept the interest. The company sued, and the Supreme Court found a
9 violation of the Takings Clause.²²

10 The argument that *Webb’s* requires the payment of interest on unclaimed property,
11 however, has been thoroughly rejected. *See Sogg*, 2007 WL 1821306 at **4-5; *Clark*, 184 S.W.3d
12 at 914-15. First, unlike unclaimed property, or failure to assert rights in the property, *Webb’s* involved
13 private property given to a third party to hold, and there was never any lapse in title. “There is an
14 important distinction between property like that at issue in *Webb’s* and property like that in *Texaco* that
15 is unused for a statutorily prescribed period of time – a difference that is critical to our analysis.”
16 *Sogg*, 2007 WL at 1821306 at *6; *see also Clark*, 184 S.W.3d at 914-15 (rejecting argument that
17 *Webb’s* applies, and holding that such property is not held in trust exclusively for owner). Second, the
18 property at issue in *Webb’s* was deposited in a segregated, interest-bearing account, where the interest
19 earned was easily ascertainable. *See Sogg*, 2007 WL 1821306 at *2. In contrast, as discussed in the
20 next section, unclaimed property in California is deposited in an operational account that is not
21 interest-bearing or segregated. In short, no interest is generated by the unclaimed property. For these
22 reasons, *Webb’s* and the other cases on which plaintiffs rely are irrelevant.

23 In *Taylor I*, 402 F.3d at 931, the Ninth Circuit, in reviewing the statutory provisions of
24 the UPL, said that the Controller holds unclaimed property in “trust” for the unknown owners, and
25

26 ²² Similarly, and more recently, the Supreme Court has held that interest earned on IOLTA accounts
27 “is the private property of the owner of the principal.” *Brown v. Legal Found. of Wash.*, 538 U.S.
216, 235 (2003) (quoting *Phillips v. Washington Legal Found.*, 524 U.S. 156, 172 (1998)) (together the
“IOLTA” cases).

1 plaintiffs will no doubt seize on this to argue that the State has a fiduciary obligation to generate and
2 pay interest. But the argument fails for several reasons. First, the Ninth Circuit's statement is dictum,
3 because it was not relevant or necessary to its Eleventh Amendment holding. As such, the court's
4 interpretation of state law (i.e. that the UPL acts as a trust) is not controlling on the issue of whether
5 the state must pay interest. *Moore v. Sims*, 442 U.S. 415, 429 (1979) (state courts and not federal
6 courts "are the principal expositors of state law."); *United States v. Thirty-Seven Photographs*,
7 402 U.S. 363, 369 (1971) (federal courts "lack jurisdiction authoritatively to construe state
8 legislation"). Here, the state courts have never interpreted the UPL as creating a trust, and in fact, have
9 consistently held that it has the dual purpose of conserving unclaimed property for the unknown
10 owners while also providing the state the benefit of the use of such property. *See* p. 6 and cases cited
11 therein. That, of course, is inconsistent with a traditional trust relationship.

12 Second, the Ninth Circuit relied heavily on its belief that unclaimed property remained
13 in a special account and therefore was being "held by the state as custodian in trust for [the owners],
14 rather than as the state's own funds." *Taylor I*, 402 F.3d at 931. But proceeds from unclaimed
15 property are deposited in an unsegregated operational account and, within a month, deposited in the
16 state's general fund. § 1564(c).

17 Third, the Ninth Circuit's statement fails to read the UPL as a whole and ignores
18 provisions that clearly demonstrate that the Legislature did not intend to create a traditional trust
19 relationship. These include the provisions stating that no interest shall be paid on unclaimed property
20 (§ 1540(c)), limiting the Controller's liability (§ 1566), requiring proceeds of the property to be
21 deposited in the general fund (§ 1564(c)), and stating that the purpose of the unclaimed property laws
22 is to provide the state with title and use of such property (§§ 1300(c), 1305). All of these are
23 inconsistent with a traditional trust relationship. *See Leider v. United States*, 301 F.3d 1290, 1298-99
24 (Fed. Cir. 2002) (statutory silence about the payment of interest is "fatal to the argument" that the
25 provision "imposes a fiduciary trustee obligation on the government to invest unlocated creditor's
26 funds productively or to pay constructive interest to unlocated creditors.").

1 Finally, other courts have consistently rejected the argument that unclaimed property
2 laws like California's establish a trust relationship. *Smyth*, 845 N.E.2d at 223 ("Smyth's reliance on
3 the custodial nature of the Act is misplaced."); *Sogg*, 2007 WL 1821306 at *7 (state not obliged to pay
4 interest to owners where escheat program is not "purely custodial"; "common law maxim that 'interest
5 follows principal'" is inapplicable); *Clark*, 184 S.W.3d at 912-13 (because abandoned property is
6 placed in state's general revenue fund, abandoned property law does not create a trust).

7 **B. There Is no Takings Because No Interest Was Generated**

8 There is a second reason plaintiffs' argument fails: Even if the state's failure to provide
9 interest implicates the Takings Clause, and it does not, plaintiffs have failed to establish a cognizable
10 property interest for which they are entitled to compensation.

11 Under California's UPL, all proceeds from escheated property are deposited in the
12 Abandoned Property Account until transferred to the General Fund, neither of which is a trust account
13 or interest-bearing account. *See* p. 6 above. In sum, once unclaimed property comes in, it is used to
14 pay either administrative expenses or claims or transferred to the General Fund, where it is
15 commingled and used to pay current expenses. The property never generates interest.

16 The case on point is *Leider v. United States*, 301 F.3d 1290. There, a bankruptcy court
17 issued a check to Leider, an unsecured creditor, but because of a change of address, Leider did not
18 receive the check. Under federal bankruptcy law, creditor checks that are not cashed within 90 days
19 are deposited in the U.S. Treasury but may be reclaimed at anytime by the creditor. Once he
20 discovered he was entitled to the payment, Leider filed a petition for the amount of the check plus
21 interest. The government paid the check proceeds but not interest, and Leider filed suit claiming that
22 he was entitled to interest on the check under the Takings Clause. *Id.* at 1292-93. Like plaintiffs here,
23 Leider argued that *Webb*'s required that "interest follow principal" and therefore he was entitled to
24 interest for the period the government held the check proceeds. *Id.* at 1296. The court rejected the
25 argument, holding that because the funds were deposited in the general treasury account and did not
26 generate ascertainable interest, Leider could not assert a valid property right under the Takings Clause.
27 The court rejected plaintiff's argument about interest following principal, holding that

1 such a rule does not apply to the present circumstances, where interest
2 never was generated. According to Mr. Leider's own complaint, "the
3 Defendants . . . make no effort to properly protect the principal of the
4 unclaimed funds by investing it in interest bearing accounts." In short,
5 because there existed no interest, there was nothing that could be taken.
6 Accordingly, the transformation of "private property into public property
7 without compensation" to which the Supreme Court referred in *Phillips*
8 never occurred.

9 301 F. 3d at 1297.²³

10 Plaintiffs' reliance on two cases that ordered interest to be paid on unlawfully seized
11 property is also misplaced. Pls' Mem. at 27-8 (citing *United States v. \$133,735.30 U.S. Currency*,
12 139 F.3d 1491 (9th Cir. 1998), *United States v. \$277,000 U.S. Currency*, 69 F.3d 1491 (9th Cir. 1995).
13 As the *Leider* court observed, those cases are not relevant because the courts there were determining
14 "the amount of just compensation after concluding that a taking had occurred, which is irrelevant to . . .
15 whether interest that was never earned may satisfy the threshold property interest requirement."
16 *Lieder v. United States*, 301 F.3d at 1298 fn. 6. In other words, those cases involved an unlawful
17 taking of the underlying property itself. Here, the underlying property in the UPL is not taken
18 unlawfully. *Taylor I*, 402 F.3d at 936. Moreover, in both cases, the property was supposed to be
19 deposited in interest-bearing accounts, a fact that both courts relied on. Here, of course, no interest
20 was earned or expected to be earned. Finally, the courts in those case were troubled by the fact that the
21 government had benefited from the use of the property, but this case involves a custodial escheat
22 where courts have universally found it acceptable and appropriate for the government to use property
23 in the interim for the public good.

24

²³ See also *Texas State Bank v. United States*, 423 F.3d 1370, 1379-80 (Fed. Cir. 2005) (in rejecting
25 takings claim regarding interest earned on bank funds required to be deposited with the federal reserve,
26 the court stated that in "contrast to *Webb's*, *Phillips*, and *Brown*, where the deposited funds were held
27 by third party banks, here Texas State did not provide funds to a third party that were then deposited in
an interest-bearing account in a private bank . . ."), cert. denied, 126 S. Ct. 2889 (2006); see also
United States Shoe Corp. v. United States, 296 F.3d 1378, 1384 (Fed. Cir. 2002) (for accrued interest
to rise to the level of private property cognizable under the takings clause, "the principal must be held
in an identified private account").

1 **C. No Plaintiff Has Provided Evidence That His or Her Property Was Interest-Bearing Prior**
2 **to Escheat**

3 This Court's 2006 Order on Defendants' Motion for Judgment on the Pleadings stated
4 that the interest issue may turn in part on facts such as the nature of the escheated property; whether
5 the property was interest-bearing prior to escheat; and how the State held the property, including
6 whether the State earns interest on property in its custody. 2006 *Suever* Order at 6. None of the
7 plaintiffs alleges, nor could they, that their property was interest-bearing prior to escheat, and
8 plaintiffs' own evidence proves that the State does not earn interest on unclaimed property in its
9 custody. Pls.' Huarte Decl., ¶14. For this reason, plaintiffs are not entitled to declaratory relief that the
10 State's failure to pay interest on their property amounts to a constitutional violation.

11 **VI.**

12 **ALTERNATIVELY, DEFENDANTS REQUEST A RULE 56(f) CONTINUANCE**

13 If the Court does not deny plaintiffs' motion as a matter of law, defendants request
14 additional time to take discovery regarding: (1) their statute of limitations defense; (2) the
15 reasonableness of various forms of notice; (3) plaintiffs' allegations that the Controller took property
16 that was not subject to escheat; and (4) plaintiffs' APA claim. *See* Prinzing Decl., ¶¶ 16-23; Defs.'
17 Mot. to Enlarge Time & Continue the Hr'g on Partial Summ. J. (filed on June 26, 2007), pp. 3-5 and
18 accompanying Harrison Decl., ¶¶ 5-11.

19 **CONCLUSION**

20 Plaintiffs' motion for partial summary adjudication should be denied.

21 Dated: July 18, 2007

22 Respectfully submitted,

23
24 REMCHO, JOHANSEN & PURCELL, LLP

25
26 By: _____/s/
27 Robin B. Johansen

28 Attorneys for Defendants John Chiang
and Richard J. Chivaro

(00037785-16)

Exhibit F

Order Denying Application for Temporary Restraining Order, *Suever v. Chiang*, No. C 03-00156 RS (E.D. Cal. August 27, 2007)

THE LAW OFFICES OF
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E-FILED 8/27/07

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

AGNES SUEVER, et al.,

NO. C 03-00156 RS

Plaintiffs,

v.

KATHLEEN CONNELL, et al.,

**ORDER DENYING
APPLICATION FOR
TEMPORARY RESTRAINING
ORDER**

Defendants.

On August 24, 2005, plaintiffs filed an application for a temporary restraining order seeking to prohibit the State Controller from communicating with any putative class members until and unless the form and substance of the communication is first reviewed and approved by the Court and plaintiffs have had the opportunity to state any objections. For the reasons explained below, the application is DENIED.

A. Recent Developments¹

On August 23, 2007, the Controller held a press conference in which he apparently announced a “plan” that purportedly would address at least some of the concerns raised by plaintiffs in this action as to how the State of California has implemented and administered its Unclaimed

¹ The factual background of this action has been described in prior orders and in a Ninth Circuit opinion in this case and will not be repeated here.

1 Property Law (“UPL”) in recent years. According to plaintiffs, the “plan” comprises sending out
2 letters to thousands of putative class members and launching a new website. Plaintiffs contend that
3 both the letters and the website are “replete” with “misinformation and omissions.”

4

5 **B. Ninth Circuit Rulings**

6 The Ninth Circuit has issued one opinion in this case, *see Suever v. Connell*, 439 F.3d 1142
7 (9th Cir. 2006), and two opinions in a similar case brought by the same plaintiffs’ counsel in the
8 Eastern District of California. *See Taylor v. Westley*, 402 F.3d 924, 933 (9th Cir. 2005) (*Taylor I*)
9 and *Taylor v. Westley*, 488 F.3d 1197 (9th Cir. 2007) (“*Taylor II*”). In response to the mandate of
10 *Taylor II*, the Eastern District of California has entered a preliminary injunction that effectively
11 precludes California from taking possession of *any* property under the purported authority of the
12 UPL.

13 The present Controller was elected after the first two of these decisions issued. The new
14 Controller has now publicly stated his intent to restore the “original intent” of the UPL through
15 legislative action and policy changes in his office.

16 Nevertheless, the Court understands and recognizes that in *this* action, as recently as in the
17 opposition to plaintiffs’ motion for partial summary judgment now under submission, the Controller
18 has continued to argue that California’s *existing* UPL and the practices thereunder (currently
19 enjoined), suffer from *no* Constitutional infirmities. Plaintiffs’ obvious frustration with the apparent
20 inability of the Controller to “get it” is therefore understandable.

21 The Controller, however, is technically correct that to date, the Ninth Circuit has never
22 issued a ruling *on the merits*. Both *Suerver* and *Taylor I* involved motions to dismiss, where
23 plaintiffs’ allegations were to be presumed true. *Taylor II* implicated only the *likelihood* of success
24 on the merits, based on the then-existing factual record. As a consequence, the Controller had, has,
25 and will have, every right to argue that the *proven* facts establish no constitutional violation. Indeed,
26 plaintiffs rely on the fact that there has been no ruling on the merits to support their pending motion
27 for partial summary judgment.

28

1 That said, at least some of the arguments presented by the Controller in opposition to the
2 motion for partial summary judgment appear to challenge whether or not *Suever, Taylor I*, and
3 *Taylor II* were correctly decided.² To the extent the Controller is so arguing, he must present his
4 case to a higher court, not the trial court. The Controller may be correct that *if* the facts as proven
5 are materially different from the facts upon which *Suerver, Taylor I*, and *Taylor II* were decided,
6 then none of those cases would be “controlling.” Plaintiffs may rest assured, though, that to the
7 extent they prove, as a matter of undisputed fact or at trial, that the facts are not materially different
8 than those considered by the Ninth Circuit, the Court will endeavor faithfully to apply the holdings
9 of the Ninth Circuit in *Suerver, Taylor I*, and *Taylor II*.

10

11 C. The Communications

12 Plaintiffs’ application for a temporary restraining order rests largely on their contention that
13 certain statements in the notices the controller now intends to send out, or on the new website, still
14 do not conform to what plaintiffs contend the Constitution, and the Ninth Circuit decisions in
15 *Suerver, Taylor I*, and *Taylor II*, require. It appears that at least some of the assertions made in the
16 challenged communications may not be consistent with either the current state of affairs or what the
17 Ninth Circuit has suggested the Controller likely will be required to do in the event plaintiffs prove
18 their case. For example, the communications apparently state that materials taken from safe deposit
19 boxes will be destroyed within 90 days, without mentioning either the existing injunction or the
20 Controller’s pledge predating that injunction that he would hold any property seized for at least 180
21 days. Similarly, the communications purportedly assert that claimants to property that has been sold
22 will be entitled to nothing more than the sales proceeds, which directly implicates an issue still in
23 controversy in this litigation.

24

25

26 ² Those arguments remain under submission, and will be addressed, if at all, in the Court’s
27 ruling on the summary judgment motion. The comments in this order provide relevant background
to the present decision, but neither prejudge the issues presented in the summary judgment motion
nor constrain any order thereon.

28

1 D. Basis for a Restraining Order

2 The temporary restraining order plaintiffs seek is unlike the prototypical TRO that provides
3 preliminary relief on the same issues raised in a plaintiff's complaint. Thus, the ordinary calculus of
4 "likelihood of success on the merits" does not apply in the usual way. At the same time, a Court
5 maintains inherent power to enjoin conduct that would interfere with its proceedings. Nevertheless,
6 plaintiffs have not shown that a TRO is warranted here. Even assuming it might be appropriate to
7 constrain a defendant's communications with prospective class members prior to class certification
8 under some circumstances, the only basis for doing so would be the potential that, as plaintiffs put it,
9 the communications might "improperly interfere with the orderly completion of this litigation." See
10 also *Tedesco v. Mishkin*, 629 F. Supp. 1474 (S.D.N.Y. 1986) (injunction entered against perjurious
11 communications by attorney to class members aimed at discouraging class members from
12 participating or encouraging them to "opt out"); *Haffer v. Temple Univ.*, 115 F.R.D. 506 (E.D. Pa.
13 1987) (defendant and its counsel enjoined from actively discouraging class members from
14 cooperating with plaintiffs' counsel).

15 Given plaintiffs' view that the Controller has not taken seriously the admonishments of the
16 Ninth Circuit, it is understandable that they take issue with some of the statements in, or omissions
17 from, the communications in issue. There is nothing here, however, that even remotely approaches
18 the kind of conduct enjoined in *Tedesco* or *Haffer*, and plaintiffs have made no showing that the
19 communications will significantly impair their ability to proceed in this action. As an initial matter,
20 whether or not the Controller accurately describes how the UPL operates or may someday operate, is
21 of little moment given that he is *enjoined* from taking any property until he has satisfied at least the
22 Eastern District of California that the law and procedures pass constitutional muster. In other words,
23 the Controller may say whatever he wants as to what the law requires or does not require without
24 affecting plaintiffs' rights, whatever they may be. Plaintiffs have invoked the jurisdiction of the
25 federal courts, and it is those courts, not the Controller, who will ultimately decide what is
26 constitutionally required.

27 Even as to matters implicated in this action that are outside the scope of the Eastern District's
28

1 injunction, such as how *existing* claims are processed and paid and whether interest should be
2 included, plaintiffs have failed to show how the Controller's communications will interfere with
3 their prosecution of this action. Again, it will be the Courts, not the Controller, that ultimately
4 decide what is required, and nothing the Controller may say or fail to say in these communications
5 will change that.

6 Finally, Plaintiffs suggest that the Controller may be seeking releases from potential class
7 members in exchange for paying claims. Even if that is so, it seems unlikely that any such purported
8 releases would be sufficient to bar such persons from pursuing relief on constitutional grounds such
9 as are alleged in this action. Accordingly, plaintiffs have not established a basis for entering a
10 temporary restraining order at this juncture.

11
12 IT IS SO ORDERED.

13 Dated: August 27, 2007



14
15 RICHARD SEEBORG
16 United States Magistrate Judge

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26
27 ORDER DENYING TRO
28 C 03-00156 RS

1 **THIS IS TO CERTIFY THAT NOTICE OF THIS ORDER HAS BEEN GIVEN TO:**

2 James C. Harrison jharrison@rjp.com, kkrogseng@rjp.com
3 Robin Bradle Johansen rjohansen@rjp.com, kkrogseng@rjp.com
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7
8 Counsel are responsible for distributing copies of this document to co-counsel who have not
9 registered for e-filing under the Court's CM/ECF program.

10 **Dated: 8/27/07**

Chamber of Judge Richard Seeborg

11 By: /s/ BAK
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ORDER DENYING TRO
C 03-00156 RS

Exhibit G

Executive Summary of Credentials and Experience of William W. Palmer

THE LAW OFFICES OF
William W. Palmer
Carter Road - Sacramento - California - 95864
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WILLIAM W. PALMER
Summary

This summary provides an overview of significant work including published decisions from the United States Supreme Court, published and unpublished state and federal decisions, published writings, and transactional work.

Overview

- **Administrative Regulations:** Mr. Palmer re-wrote the Unfair Claims Regulations, to become the “Fair Claims Regulations.” The Fair Claims Regulations (Cal. Code Regs. Tit. 10, § 2695.1 (1995)), guide and control the timing, payment, and grievance resolution of property casualty insurance claims in the State of California. California is the largest insurance market in the United States of America and controls 20-25% of the insurance business of this country. Mr. Palmer authored a law review article, which was published and may be found at: William W. Palmer, “Proposed Unfair Claims Regulations” (1996) 36 Santa Clara Law Review 687, which explains the operation of the Fair Claims Regulations.
- **Legal Work in Iraq:** Mr. Palmer worked in Iraq at the request of federal government during March – April 2006.
- **Holocaust Insurance Litigation and Claims Payments:** Mr. Palmer wrote the “Fifteenth Annual International Law Symposium Nazi Gold and Other Assets of the Holocaust: *What Happens Next?*,” 20 Whittier Law Review 122 (1998). This law review article provides a detailed plan for the resolution of the life and property casualty insurance benefits owed to victims of the Holocaust atrocities and genocide.
- Mr. Palmer then wrote the Budget Change Proposal (or BCP) for the State of California that created the funding mechanism for the plan, which was folded into Senator Tom Hayden’s Senate Bill (SB 1530) that allowed California to create the International Holocaust Commission. This piece of legislation, carried by Senator Hayden (D), was signed into law by Governor Pete Wilson (R). Amazingly, Sen. Hayden, who was known as a Vietnam War activist, and Governor Wilson, a United States Marine who served in Vietnam, had not spoken with one another during Governor Wilson’s entire term in office, but both supported this piece of legislation. Mr. Palmer was presented with the Governor’s signing pen and the original legislation as a gift recognizing his work on creating the law.
- The Holocaust Insurance reparations law, prepared by Mr. Palmer, was later endorsed by Presidents Clinton and Bush, and the law was reviewed by the United States Supreme Court, and found to be constitutional in *American Insurance Association v. Garamendi*, 539 U.S. 396 (2003). Mr. Palmer worked in the United States and overseas, *pro bono* (at his cost), to implement SB 1530, and was later

called one of the lead witnesses in the *AIA v. Garamendi* case, as discussed above. Prime Minister of Israel, Benjamin Netanyahu thanked Mr. Palmer in a personal letter (dated May 2, 1999) for his “determined efforts to achieve justice on the issue of Holocaust Era Insurance Claims.”

- **Restructuring of Lloyd's of London:** Mr. Palmer was the attorney responsible for coordinating the litigation and restructuring of Lloyd's of London (\$24 billion, approx.) that protected consumers and policyholders in California and the United States. *See, for example,* Mr. Palmer's appearance in the published decision of *Allen v. Lloyd's of London*, 94 F.3d 923 (4th Cir. 1996) (Held: The policies of the United States securities laws did not override the parties' choice of forum and law for resolving disputes; thus, the contractual provisions selecting the law of and a forum in the United Kingdom were enforced).
- Mr. Palmer was presented with a small commemorative plate in London by Sir David Rowland, the Chairman of Lloyd's, who was later knighted by the Queen of England for his role in strengthening this famous syndicate of English companies. Mr. Palmer was also the lead attorney responsible for negotiating a Memorandum of Understanding between the Department of Corporations and the Department of Insurance in the Governor's Office that allowed each agency to oversee and regulate Lloyd's of London. Based primarily on his work on behalf of California and the United States, Mr. Palmer was presented with the flag flown over the State of Texas by the Insurance Commissioner of Texas, followed by a short meeting with the former Texas Governor George W. Bush.
- **Executive Life Insurance Company (ELIC):** Mr. Palmer testified on behalf of the California Department of Insurance in *American Insurance Association v. Garamendi*, 539 U.S. 396 (2003) (discussed below), and in Commissioner John Garamendi's case involving the Executive Life Insurance Company (ELIC) and a French investment consortium. The case resulted in roughly a \$1 billion judgment following a jury trial on behalf of the ELIC policy holders and claimants.
- **California Homeowner's Insurance Market:** Mr. Palmer worked on the restructuring of the private California Homeowner's Insurance Market and avoided its collapse by assisting (in a minor role) with the creation the California Earthquake Authority (or CEA), a \$12 billion dollar, vertical and horizontally risk-layered, government/private sector business entity. Mr. Palmer received an award recognizing his work. Mr. Palmer presented a paper on the subject of the CEA to the Chinese Bank and Insurance Company in Beijing, China.
- **Demutualization of California's Largest Mutual Insurance Company:** Mr. Palmer was responsible for leading California's legal team effort to successfully demutualize and restructure Pacific Mutual Life Insurance Company into Pacific Life Insurance Company. Pacific Life is one of California's largest, most successful, and best run life insurance companies with significant assets, making it one of the largest companies of its kind in the world. Most important, Mr.

Palmer worked to create safeguards and to protect the policyholders within a unique “closed block” that preserved their ownership and equity rights in the former mutual company. As a mutual company, the former policyholders were also owners of the company, and these rights could have been lost when the company underwent its restructuring. Ultimately, Pacific Life was the only demutualization that was not challenged and sued in a class action by the trial bar during that period of time; roughly 19 other similar transactions were either sued or halted.

- **Significant Transactional Experience:** Mr. Palmer has significant transactional experience and has written business plans, including a business plan that was accepted by the Fortune One Company, and has written a variety of stock purchase and redemption agreements, buy-sell agreements, creation of various business entities, mergers and acquisitions, and handled all manner of large and small business work and government filings.
- Mr. Palmer has significant private practice insurance coverage experience and drafted the manuscript risk pool (insurance) coverage for roughly 180 of California’s schools, including Kindergarten (K) through Ninth (9th) grades, and the Community Colleges. Mr. Palmer has written over 300 insurance coverage analyses and opinions in plaintiff and defense cases. He is routinely called to testify on behalf and assist the State and Federal Governments on complex insurance cases. *See, for example,* Mr. Palmer’s published decision in *Downey Venture, et. al. v. LMI Ins. Co.* (1998) 66 Cal. App. 4th 478 (The court held that public policy prevented appellee insurance company from being liable for indemnification on a malicious prosecution claim incurred by appellants, but public policy did not prevent appellee’s duty to defend the claim).
- **Insurance Insolvency:** Mr. Palmer was lead counsel for the restructuring of Golden Eagle Insurance Company that, at \$1.2 billion, was one of the largest insurance insolvencies (bankruptcies) in the last decade. Mr. Palmer successfully preserved the current business within a “New” Golden Eagle Insurance Company that was purchased for \$1.2 billion by Liberty Mutual Insurance Company, while creating a massive liquidating trust. The Golden Eagle insolvency is now used as a model for the efficient handling and resuscitation of an insurance company.
- Additional work performed in complex insurance insolvencies may be found in published and unpublished decisions in which Mr. Palmer appeared as counsel, for example, *see Quackenbush v. Mission Ins. Co.* (1998) 62 Cal. App. 4th 797 (Held: Liquidation plan submitted by California Insurance Commissioner was approved even though objections were made that the plan required estimated payments prior to claims being established when plan provided for process to establish claims).

- **Appearances and Work Before the United States Supreme Court:** Mr. Palmer is admitted to the United States Supreme Court and appeared in *Mission Ins. Co. v. Allstate*, 517 U.S. 706 (1996). The case ultimately settled for full value owed to the policyholders and claimants.
- Mr. Palmer settled *20th Century Ins. Co. v. Garamendi* (1994) 8 Cal. 4th 216, literally on the steps of the United States Supreme Court, following which the Petition for Certiorari was dismissed pursuant to Rule 46 of the Rules of the United States Supreme Court. The settlement Mr. Palmer created, utilized a unique strategy that funded the Prop. 103 rebate to the past policyholders as required by law, while creating a financial buffer to protect the current policyholders and shareholders to fund the Northridge Earthquake claims that were still developing. After the settlement, 20th Century Insurance Company, which was on the edge of financial insolvency, rebounded and its stock rose from \$7.00 to \$21.00 per share. It remains one of California's strongest companies and employers. Following this settlement, Mr. Palmer drafted a detailed multi-million dollar Budget Change Proposal, or "BCP," then retained ten (10) law firms and prosecuted the insurance companies that owed Prop. 103 Rollbacks, which resulted in a recovery of \$1.2 Billion for the policyholders and taxpayers in the State of California.
- Mr. Palmer's appeared in the Ninth Circuit's decision in *Fireman's Fund Ins. Co. v. Quackenbush* (9th Cir. 1996) No. 92-15861, United States Court of Appeals for the Ninth Circuit, 1996 U.S. App. LEXIS 19493 (Held: The insurers' claims against the insurance commissioner's implementation of regulations were properly dismissed under the abstention doctrine, even though some were ripe, because there was a difficult and unresolved question of state law).
- **Additional Appearances:** Mr. Palmer has appeared and represented California and United States before the Governments of Iraq, Germany, France, the United Kingdom, Israel, Russia, and China.
- Mr. Palmer presented two papers on the financial structure and purpose of the California Earthquake Authority (CEA), and a second paper on predictions and improvements to California insurance underwriting at the International Catastrophic Insurance Seminar in Beijing, China. He was awarded with a commemorative gift for his participation by the Chinese government.
- **Unclaimed Property Law and Litigation:** Mr. Palmer and his law firm do a significant amount of work involving the Unclaimed Property Law with litigation pending against California Controller Steve Westly involving the mishandling of public and private funds. *See, for example*, Mr. Palmer's published decisions in: *Suever v. Westly*, 439 F. 3d 1142 (March 14 2006); *Taylor v. Westly* 402 F.3d 924 (9th Cir. 2005) (Kleinfeld, J.), *reh'g denied, reh'g en banc denied* ____ F.3d ____ (May 13, 2005) ("*Taylor I*") (The Ninth Circuit denied the Controller's petition for rehearing and rehearing *en banc* with the added comment that the

panel circulated the petition to all the 58-judges of the Ninth Circuit and "not a single judge" wished to rehear the case); *Taylor v. Westly*, ___ F.3d ___, C.A. 05-16763 (9th Cir. 2007) ("*Taylor II*") (Directing the District Court to enter a preliminary injunction enjoining Defendants from accepting property under color of the UPL until Controller satisfies Due Process Clause.); *see also, Taylor v. Westly*, Order Re: Preliminary Injunction, No. Civ. 01-2407 WBS (E.D. Cal. June 1, 2007) (Enjoining the California Controller from taking possession of or title to any additional property under color of the Unclaimed Property Law until the Court has approved regulations satisfying the Due Process Clause in accordance with directive of *Taylor II*); *Harris, et. al. v. Westly* (2004) 116 Cal. App. 4th 214; and *see Fong v. Westly* (2004) 117 Cal. App. 4th 841; *Harris v. Verizon* (2006) 141 Cal. App. 4th 573.

On May 15, 2006, Mr. Palmer and his law firm prevailed on a motion for summary adjudication of issues and obtained four injunctions against the California Controller in *Trust Realty Partners v. Westly*, Sacramento Superior Court Case No. 04AS02522. The injunctions prohibit the Controller from further violations of law and require the State Official to (1) provide Constitutional Notice and Due Process to property owners before their property is sold or otherwise destroyed; (2) promulgate proper regulations under the Administrative Procedures Act (or "APA"), Government Code §§11340 *et seq.*; (3) prohibit the Controller from retroactively applying reductions in interest rates, and requiring the Controller to restore the wrongfully-stripped interest by retroactive application of the law to *all* private accounts; and (4) return property to Mr. Palmer's client TRP. The Controller is appealing the adverse ruling.

- **Pro Bono Work and Civil Rights Work:** In addition to his pro bono work on behalf of Holocaust victims, Mr. Palmer routinely handles *pro-bono* or public service work. As previously mentioned, Mr. Palmer's work on behalf of the Holocaust victims was performed to correct an eternal wrong committed to the face of mankind. Mr. Palmer declined all manner of gifts and remuneration.
- He received a first edition book personally autographed by Rosa Parks, entitled "Quiet Strength: The Faith, the Hope, and the Heart of a Woman Who Changed a Nation," for his assistance to one of Sacramento County's top community leaders, and minority bookstore owner Carol McNeal. Ms. McNeal's case was reported in the Sacramento Bee Newspaper and was "resolved" against an NBA basketball player to the satisfaction of the parties.
- **Actions Against State Officials for Government Records:** Mr. Palmer routinely pursues government records requests against recalcitrant government officials and state agencies under both California Public Records Act (CPRA), Cal. Gov. Code §§ 6250, *et seq.*, and the Freedom of Information Act (FOIA), 5 U.S.C. §§ 552, *et seq.* Court Order issued to award fees and costs. Contempt motion filed against Government Officials who fail to comply with Court Order. Follow through.

- **Complex Securities Cases:** Mr. Palmer has significant experience dealing with complex securities cases. *See, for example*, Mr. Palmer's recent successful appearances in *Tucker v. Intel Corporation*, Ninth Circuit Court of Appeals Case No. 03-17079 (SLUSA Preemption); *Harris v. Verizon Communications, Inc.*, No. 02-56335, United States Court of Appeals for the Ninth Circuit, 84 Fed. App. 958; 2003 U.S. App. LEXIS 26502, November 4, 2003 (9th Cir. 2003)(Mr. Palmer associated into the case on appeal, wrote the appellate briefs in the class action brought on behalf of Verizon minority shareholders and overturned a lower court ruling based on ERISA preemption); *see also, Allen v. Lloyd's of London*, 94 F.3d 923 (4th Cir. 1996) (Held: The policies of the United States securities laws did not override the parties' choice of forum and law for resolving disputes; thus, the contractual provisions selecting the law of and a forum in the United Kingdom were enforced).